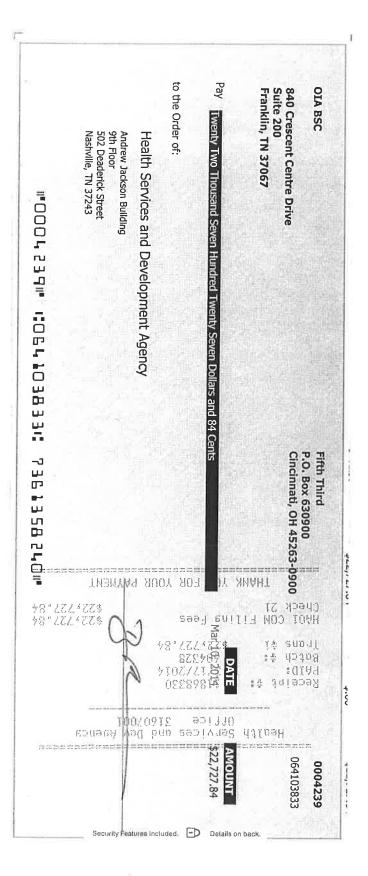
COPY
-Application
West
Tennessee
Imaging, LLC.

CN1403-008



Have a nice day! Thank you for your payment.

\$22,727.84

Check 21

\$55,727.84

Transaction Total:

\$22,727.84

Payment Total:

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BUTLER | SNOW

March 14, 2014

Via hand delivery
Ms. Melanie Hill
Executive Director
Tennessee Health Services and Development Agency
502 Deaderick Street, 9th Floor
Nashville, TN 37243

RE: West Tennessee Imaging, LLC

Dear Ms. Hill:

Please find enclosed the original and two copies of the Certificate of Need Application referenced above. The filing fee was delivered with the letter of intent.

Thank you for your attention to the enclosed.

Sincerely,

BUTLER SNOW LLP

Sarah Lodge Tally

SLT/mar

Enclosures

20282185ButlerSnow

1. Name of Facility, Agency, or Ins	 stitution	Life.
	,	
West Tennessee Imaging, LLC, d/b/a Name		-
Name		
7600 Wolf River Blvd.		Shelby
Street or Route		County
Memphis	<u>TN</u>	38138
City	State	Zip Code
C. A. A. B. C. A. B. C. D.		A\$
2. <u>Contact Person available for Re</u>	sponse to Ques	<u>uons</u>
Perry Baker		CFO, Outpatient Imaging Affiliates
Name		Title
840 Crescent Centre Drive, Suite 200	Nashville	TN 37067
Street or Route	City	State Zip Code
Member of joint venture	615-550-604	44 615-261-2300
Association with Owner	Phone Numb	
5,		
3. Owner of the Facility, Agency o	r Institution	
West Tennessee Imaging, LLC		615-550-6044
Name		Phone Number
7600 Wolf River Blvd.		Shelby
Street or Route		County
		·
Memphis	TN State	38138 Zip Code
City	State	Zip Code
4 Type of Ownership of Control (Check One)	
A. Sole Proprietorship	F.	Government (State of TN or
B. Partnership		Political Subdivision)
C. Limited Partnership		Joint Venture
D. Corporation (For Profit)	Н.	Limited Liability Company X

E.	Corporation (Not-for-Profit)		[.	Other(Specify)
	ALL ATTACHMENTS AT THE DERENCE THE APPLICABLE IT			APPLICATION IN ORDER AND
5.	Name of management/Operating			
Outne	atient Imaging Affiliates, LLC			
Name				
840 (Crescent Centre Drive, Suite 200			Williamson
Street	t or Route			County
Frank	clin	TN		38138
City		State		Zip Code
	ALL ATTACHMENTS AT THE			
REF	EREENCE THE APPLICABLE IT	TEM NUM	IBER	ON ALL ATTACHMENTS.
	Y 17 44 % AL . C*4 C41 Y		(C1. a.	-1. On a)
6.	Legal Interest in the Site of the I	nstitution	(Cnec	ck One)
A.	Ownership Option to Purchase		_	n to Lease (Specify)
B. C.	Lease of 10 Years X	E.		(Specify)
DIT	ALL ATTACHMENTS AT THE	RACK OF	'THF	E APPLICATION IN ORDER AND
	ERENCE THE APPLICABLE IT			
7.	Type of Institution (Check as app	ronriate—i	more	than one response may apply)
A. B.	Hospital (Specify) Ambulatory Surgical Treatment		H. I.	Nursing Home
Б.	Center (ASTC), Multi-Specialty_		L.	Outnatient Diagnostic Center X
				Outpatient Diagnostic Center X Rehabilitation Facility
1 ('			J.	Rehabilitation Facility
C.	ASTC, Single Specialty		J. K.	Rehabilitation Facility Residential Hospice
D.	ASTC, Single Specialty Home Health Agency		J.	Rehabilitation Facility Residential Hospice Nonresidential Solution-Based
D. E.	ASTC, Single Specialty Home Health Agency Hospice		J. K.	Rehabilitation Facility Residential Hospice Nonresidential Solution-Based Treatment Center for Opiate
D. E. F.	ASTC, Single Specialty Home Health Agency Hospice Mental Health Hospital] ;	J. K. L.	Rehabilitation Facility Residential Hospice Nonresidential Solution-Based Treatment Center for Opiate Addiction
D. E.	ASTC, Single Specialty Home Health Agency Hospice Mental Health Hospital Intellectual Disability] ;	J. K. L. M.	Rehabilitation Facility Residential Hospice Nonresidential Solution-Based Treatment Center for Opiate Addiction Birthing Center
D. E. F.	ASTC, Single Specialty Home Health Agency Hospice Mental Health Hospital		J. K. L.	Rehabilitation Facility Residential Hospice Nonresidential Solution-Based Treatment Center for Opiate Addiction
D. E. F.	ASTC, Single Specialty Home Health Agency Hospice Mental Health Hospital Intellectual Disability Institutional Habilitation Facility		J. K. L. M. N.	Rehabilitation Facility Residential Hospice Nonresidential Solution-Based Treatment Center for Opiate Addiction Birthing Center Other Outpatient Facility
D. E. F.	ASTC, Single Specialty Home Health Agency Hospice Mental Health Hospital Intellectual Disability Institutional Habilitation Facility	IR)	J. K. L. M. N. E.	Rehabilitation Facility Residential Hospice Nonresidential Solution-Based Treatment Center for Opiate Addiction Birthing Center Other Outpatient Facility Other(Specify)
D. E. F. G.	ASTC, Single Specialty Home Health Agency Hospice Mental Health Hospital Intellectual Disability Institutional Habilitation Facility (IDIHF) (ICF/IID formerly ICF/M	IR)	J. K. L. M. N. E.	Rehabilitation Facility Residential Hospice Nonresidential Solution-Based Treatment Center for Opiate Addiction Birthing Center Other Outpatient Facility Other(Specify) than one response may apply)
D. E. F. G.	ASTC, Single Specialty Home Health Agency Hospice Mental Health Hospital Intellectual Disability Institutional Habilitation Facility (IDIHF) (ICF/IID formerly ICF/M	IR)	J. K. L. M. N. E.	Rehabilitation Facility Residential Hospice Nonresidential Solution-Based Treatment Center for Opiate Addiction Birthing Center Other Outpatient Facility Other(Specify)

D.	Initiation of Health Care				crease, Decr		
	Service as defined in TCA§	Designation, Distribution,					
	68-11-1607 (4)		Co	nversion,	Relocation]		
	(Specify)	H.	Ch	ange of L	ocation	<u>X</u>	
E.	Discontinuance of OB Services	I.	Otl	ner(Specif	(Y)		
F.	Acquisition of Equipment X						
	ed Complement Data	-4:la4i a.u	and as	utificato e	of facility by	ods.	
PI	ease indicate current and proposed dis	Current		Staffed	Beds	TOTAL	
		License		Beds	Proposed	Beds at Completion	
I	A. Medical						
F	3. Surgical						
	C. Long-Term Care Hospital						
I	O. Obstetrical						
I	E. ICU/CCU						
I	F. Neonatal						
	G. Pediatric						
I	H. Adult Psychiatric						
I	. Geriatric Psychiatric						
J	. Child/Adolescent Psychiatric						
I	K. Rehabilitation						
1	L. Nursing Facility – SNF (Medicare only)						
1	M. Nursing Facility – NF (Medicaid only)			Į.			
1	N. Nursing Facility – SNF/NF (dually certified Medicaid/Medicare)						
(O. Nursing Facility – Licensed (non- Certified)						

				 	 $\overline{}$
S. Dep	endency				
T. Swi	ng Beds				
U. Mer	ntal Health Residential Treatment				
V. Resi	idential Hospice				
	TAL ON-Beds approved but not yet in vice.				
10.	Medicare Provider Number n/s Certification Type	a – new e	ntity		_

P. IDIHF

Q. Adult Chemical Dependency
R. Child and Adolescent Chemical

- 11. Medicaid Provider Number <u>n/a new entity</u> Certification Type_____
- 12. If this is a new facility, will certification be sought for Medicare and/or Medicaid? Yes.
- 13. Identify all TennCare Managed Care Organizations/Behavioral Health Organizations (MCOs/BHOs) operating in the proposed service area. Will this project involve the treatment of TennCare participants? Yes. If the response to this item is yes, please identify all MCOs/BHOs with which the applicant has contracted or plans to contract. United Healthcare Community Plan, BlueCare, and TennCare Select are the three managed care plan in West Tennessee. OiA currently participates in all three plans, and it is anticipated that the applicant will participate in all three plans.

SECTION B: PROJECT DESCRIPTION

Please answer all questions on 8 1/2" x 11" white paper, clearly typed and spaced, identified correctly and in the correct sequence. In answering, please type the question and the response. All exhibits and tables must be attached to the end of the application in correct sequence identifying the questions(s) to which they refer. If a particular question does not apply to your project, indicate "Not Applicable (NA)" after that question.

I. Provide a brief executive summary of the project not to exceed two pages. Topics to be included in the executive summary are a brief description of proposed services and equipment, ownership structure, service area, need, existing resources, project cost, funding, financial feasibility, staffing, and how the project will contribute to the orderly development of adequate and effective healthcare.

Outpatient Imaging Affiliates ("OiA"), a national owner and operator of outpatient diagnostic imaging centers and current owner of Outpatient Diagnostic Center of Memphis located at 5130 Stage Rd, Memphis, TN 38134, has entered into a mutual understanding with Baptist Medical Group ("BMG") and Mid-South Imaging and Therapeutics, P.A. ("MSIT") to relocate its current outpatient diagnostic center ("ODC") to 7600 Wolf River Blvd. While the ownership structure of the proposed facility will be different than the existing ODC, this Certificate of Need Application is essentially a relocation because the existing ODC will be closed if this application is approved.

The existing ODC has a need to upgrade the MRI equipment to better serve its patients. The current equipment is a 1997 GE Signa Horizon 1.5T. With this need and the corresponding expense, OiA further underwent an effort to evaluate if the current location was the best location to serve its patient base.

Most of the patients for the existing facility have historically originated from Shelby and Tipton Counties. The proposed new location is larger and more patient-friendly. The new

location is approximately 10 miles from the existing location. Drive time for the majority of patients will be roughly the same to the new location as it is to the existing location.

With the data suggesting potential relocation, OiA sought input from several of its referring physicians. Letters of Support from referral sources confirm that relocation will better serve their patients.

While evaluating its location options, OIA was approached by the radiology group that serves the existing facility – Mid-South Imaging and Therapeutics, P.A. – with the idea of partnering with MSIT and the Baptist Medical Group ("BMG"). BMG is the Mid-South's largest integrated not-for-profit multispecialty physician practice. It is a group of more than 500 expert primary and specialty care doctors representing over 42 specialties and practicing in locations throughout the region, including West Tennessee, North Mississippi and East Arkansas. MSIT is a private radiology practice that has served the Memphis area for over 40 years. MSIT provides diagnostic and interventional radiology services to thousands of patients in the Memphis area through the Baptist Memorial Health Care System and other providers in the Mid-South area. MSIT's physicians include a group of thirty-five radiologists that are board-certified and fellowship-trained in 7 radiology subspecialty areas including Body, Vascular Intervention, Interventional Neuroradiologists, Mammography, Neuroradiology, Nuclear Medicine and Pediatric Radiology.

MSIT and BMG have agreed to a conditional joint venture relationship under which (as the terms stipulate) the new entity, West Tennessee Imaging, LLC, was created for the purpose of replacing and relocating the existing facility by obtaining a certificate of need for the facility described in this application. OiA will relinquish the license for the existing outpatient diagnostic center upon a license being issued for the new imaging center. Thus, this project will not add MRI capacity in the market.

Services at the new facility will be MRI, CT, X-Ray, Ultrasound, and Fluoroscopy studies.

Ownership of West Tennessee Imaging, LLC, is as follows:

Baptist Medical Group ("BMG")	80%
Mid-South Imaging and Therapeutics, P.A. ("MSIT")	5%
Outpatient Imaging Affiliates of Tennessee ("OiA")	15%

The project's primary service area is Shelby and Tipton Counties. Some patients will come from adjacent areas.

The total project cost, including equipment, space lease and build out, will be \$10,123,989. The project will be financed by a combination of borrowing and cash contribution of the owners of \$1.4 million.

The center will be properly staffed with levels consistent to other imaging providers in the market and at other OiA operated locations.

The project will contribute to the orderly development of health care because it will relocate an existing facility to a new, more accessible, patient friendly building with space to accommodate new imaging modalities (CT, x-ray, ultrasound, and fluoroscopy).

- II. Provide a detailed narrative of the project by addressing the following items as they relate to the proposal.
 - A. For the establishment or modification of a healthcare institution describe the development of and need for the proposal. Health care institutions include:
 - 1. Nursing Home
 - 2. Hospital
 - 3. Ambulatory Surgical Treatment Center
 - 4. Birthing Center
 - 5. Mental Health Hospital
 - 6. Intellectual Disability Institutional Habilitation Facility
 - 7. Home Care Organization (Home Health Agency or Hospice Agency)
 - 8. Outpatient Diagnostic Center
 - 9. Rehabilitation Facility
 - 10. Residential Hospice
 - 11. Nonresidential Substitution-based Treatment Center for Opiate Addiction

Describe the construction, modification and/or renovation of the facility (exclusive of major medical equipment covered by T.C.A. § 68-11-1601 et seq.) including square footage, major operational areas, room configuration, etc. Applications with construction, modification and/or renovation costs should complete the Square Footage and Cost per Square Footage Chart. Utilizing the attached Chart, applicants with hospital projects should complete Parts A.-E. by identifying as applicable nursing units, ancillary areas, and support areas affected by this project. Provide the location of the unit/service within the existing facility along with current square footage, where, if any, the unit/service will relocate temporarily during construction and renovation, and then the location of the unit/service with proposed square footage. The total cost per square foot should provide a breakout between new construction and renovation cost per square foot. Other facility projects need only complete Parts B.-E. Please also discuss and justify the cost per square foot for this project.

The project involves new construction of 6,986 square feet of shell space, on the first floor located at 7600 Wolf River Circle, Germantown, TN 38138. Construction will include the following rooms directly related to imaging: MRI exam suite, MRI equipment room, MRI control, CT exam suite, CT control, X-Ray exam suite with patient restroom, Ultrasound exam suite with patient restroom, and Radiologist/Physician reading room. All construction related to imaging will incorporate required shielding and safety related components.

Construction will include the following rooms related to support of imaging services and administrative services: main patient waiting room, reception, patient dressing and sub waiting rooms, administrative areas and offices, education/conference, break room, restrooms, janitorial, linen closets, storage rooms, and electrical/IT.

Design will be performed by an architect and engineering team, licensed in the state of Tennessee, using the codes applicable to ODCs and of the City of Germantown, TN. Construction will be performed by a contractor licensed in the state of Tennessee.

B. Identify the number and type of beds increased, decreased, converted, relocated, designated, and/or redistributed by this application. Describe the reasons for change in bed allocations and describe the impact the bed change will have on the existing services. *Not applicable*.

SQUARE FOOTAGE AND COST PER SQUARE FOOTAGE CHART

A.	Existing	Existing	Temporary	Proposed Final	Propose	Proposed Final Square Footage	quare	Proposed	Proposed Final Cost/ SF	st/ SF
Unit/Department	Location	T	Location	Location	Renovated	New	Total	Renovated	New	Total
MR Exam Suite	Clinical	675	n/a	Clinical	0	450	450	n/a	\$285	\$285
MR Control	Clinical	280	n/a	Clinical	0	216	216	n/a	\$285	\$285
MR Equipment	Clinical	114	n/a	Clinical	0	180	180	n/a	\$285	\$285
Ultrasound	n/a	n/a	n/a	Clinical	0	175	175	n/a	\$285	\$285
X-Rav	n/a	n/a	n/a	Clinical	0	528	528	n/a	\$285	\$285
CI	n/a	n/a	n/a	Clinical	0	459	459	n/a	\$285	\$285
CT Control	n/a	n/a	n/a	Clinical	0	132	132	n/a	\$285	\$285
All other rentable	n/a	n/a	n/a		0	6,118	6,118	n/a	\$285	\$285
B. Unit/Depart. GSF Sub-Total					0	8,258	8,258	n/a	\$285	\$285
C. Mechanical/ Flectrical GSF					0	0	0			
D. Circulation/					0	0	0			
E Total GCF					0	8,258	8,258	n/a	\$285	\$285

- C. As the applicant, describe your need to provide the following health care services (if applicable to the application): This is effectively a relocation of an existing facility; therefore, the applicant is not adding any new services.
 - 1. Adult Psychiatric
 - 2. Hospital-Based Alcohol and Drug Treatment for Adolescents (exceeding 28 days)
 - 3. Burn Units
 - 4. Cardiac Catheterization Services
 - 5. Child and Adolescent Psychiatric Services
 - 6. Extracorporeal Lithotripsy
 - 7. Home Health Services
 - 8. Hospice Services
 - 9. Magnetic Resonance Imaging (MRI)
 - 10. Neonatal Intensive Care Unit
 - 11. Opiate Addiction Treatment provided through a Non-Residential Substitution-Based Treatment Center For Opiate Addiction
 - 12. Open Heart Surgery
 - 13. Positron Emission Tomography
 - 14. Radiation Therapy/Linear Accelerator
 - 15. Rehabilitation Services
 - 16. Swing Beds
 - 17. Discontinuation of any obstetrical or maternity service
 - 18. Closure of a Critical Access Hospital
 - 19. Elimination in a critical access hospital of any service for which a certificate of need is required.
- D. Describe the need to change location or replace an existing facility. The need to change from the current location is driven primarily by two factors: 1) the need for new equipment and technology to better serve the Shelby County marketplace and 2) the need to enhance accessibility and convenience for patients and their referring physicians.
- E. Describe the acquisition of any item of major medical equipment (as defined by the Agency Rules and the Statute) which exceeds a cost of \$2.0 million; and/or is a magnetic resonance imaging (MRI) scanner, positron emission tomography (PET) scanner, extracorporeal lithotripter and/or linear accelerator by responding to the following:

- 1. For site major medical equipment (not replacing existing equipment):
 - a. Describe the new equipment, including:
 - 1. Brief description of equipment including characteristics such as fixed or mobile; expected vendor and model (if known); for MRI use descriptors such as Tesla strength, open/closed bore; for linear accelerators use descriptors such as MeV strength, IMRT/IGRT/SRS capability; etc.

The MRI that WTI will purchase is a GE Optima 1.5 Tesla wide-bore unit. The scanner can support patients up to 500 pounds, which will allow WTI to better serve obese patients.

- 2. Total cost (As defined by Agency Rule 0720-9-.01(13)).
 - a. By Purchase or
 - b. By Lease

The cost of the unit is \$1.5 million. Taxes and service are \$670,000, for a total cost of \$2,170,000.

3. Expected useful life;

The expected useful life of the MRI is 5 years.

4. List of clinical applications to be provided; and

The MRI currently located at 5130 Stage Road provides scans of the head, lumbar spine, cervical spine, and extremities. The same services will be provided at the new location. In addition, the MRI at the new location will provide arthrograms, which are MRI studies of joints. Two of the MSIT radiologists who will read scans at the new location have specific expertise in arthrograms and the applicant expects patients to be referred to the facility for these procedures.

- 5. Documentation of FDA approval. Attached as Attachment B.II.E.1.a.5.
- 6. For mobile major medical equipment list all sites that the unit is currently serving and its current schedule of operations at those sites. *N/A*
- b. Provide current and proposed schedules of operations.

 The current site is open Monday Friday, 7:00 am 5:00 pm. Extended hours on these days, as well as Saturdays, are provided on an as needed basis. The proposed new site will be open Monday Friday, 8:00 a.m. 6:00 p.m., with similar extended hours as needed.
- 2. Indicate applicant's legal interest in equipment (i.e., purchase, lease, etc.) In the case of equipment purchase include a quote and/or proposal from an equipment vendor. In the case of an equipment lease provide a draft lease or contract that at least includes the term

of the lease and the anticipated lease payments along with the fair market value of the equipment. The MRI will be purchased. A quotation from the vendor is attached as Attachment B.II.E.2.

III. (A) Attach a copy of the plot plan of the site on an 8 ½"x11" sheet of white paper which must include: The plot plan is attached as Attachment B.III.

- 1. Size of site (in acres);
- 2. Location of structure on the site; and
- 3. Location of the proposed construction.
- 4. Names of streets, roads or highway that cross or border the site.

Please note that the drawings do not need to be drawn to scale. Plot plans are required for all projects.

(B) Describe the relationship of the site to public transportation routes, if any, and to any highway or major road developments in the area. Describe the accessibility of the proposed site to patients/clients. (Not applicable to home health or hospice agency applications)

Public transportation is easily accessible on Wolf River Boulevard; there is a bus stop across the street from the facility. The Wolf River Boulevard intersection with Germantown Parkway is approximately 0.6 miles away. The site is located within 4 miles to I240. The property is located between Wolf River Boulevard, and the Wolf River biking and hiking trail.

IV. Attach a floor plan drawing for the facility which includes legible labeling of patient care rooms (noting private or semi-private) ancillary areas, equipment areas, etc. on an 8 ½"x11" sheet of white paper. (Not applicable to home health or hospice agency applications)

The floor plan is attached as Attachment B.IV.

- V. For a Home Health Agency or Hospice, identify: *N/A*
 - 1. Existing service area by County;
 - 2. Proposed service area by County;
 - 3. A parent or primary service provider;
 - 4. Existing branches; and
 - 5. Proposed branches.

SECTION C: GENERAL CRITERIA FOR CERTIFICATE OF NEED

NEED

- 1. Describe the relationship of this proposal toward the implementation of the State Health Plan and Tennessee's Health: Guidelines for Growth, if applicable.
 - a. Please discuss how the proposed project will relate to the <u>5 Principles for Achieving</u>
 <u>Better Health</u> found in the State Health Plan. Please list each principle and follow it with a response.

- <u>Healthy Lives</u>. The project will improve the health of patients because it will provide patients with better access to a full complement of diagnostic imaging services.
- <u>Access to Care</u>. The applicant plans to participate in all TennCare MCOs that operate in the area.
- <u>Economic Efficiencies</u>. This project does not add any new MRI capacity but relocates the existing service to a more convenient location.
- <u>Quality of Care</u>. The members of West Tennessee Imaging, LLC, have a history of providing excellent care to patients, and their involvement in West Tennessee Imaging, LLC, assures that the proposed facility will provide high quality care.
- <u>Health Care Workforce</u>. Most of the staff required for the new facility are currently employed at the existing facility, so the project will have a negligible effect on the health care workforce. In the future, West Tennessee Imaging, LLC, may participate in the training of students.
- b. Please provide a response to each criterion and standard in Certificate of Need Categories that are applicable to the proposed project. Do not provide responses to General Criteria and Standards (pages 6-9 of the <u>Guidelines for Growth</u>) here.

For relocation or replacement of an existing licensed healthcare institution:

a. The applicant should provide plans which include costs for both renovation and relocation, demonstrating the strengths and weaknesses of each alternative.

Relocation of the existing ODC at 5130 Stage Road is not a viable alternative because (1) its location does not have the accessibility advantage of the proposed new location and (2) there is inadequate space at the existing location for the facility to be a full-service outpatient imaging center. The cost of the proposed relocation is \$10,123,989.

b. The applicant should demonstrate that there is an acceptable existing or expected future demand for the proposed project.

The MRI services at the existing location are well-utilized.

Year	2011*	2012	2013	
MRI Procedures	1918	2214	2564	

^{*} OiA acquired the center March 2011 so 10 months data are extrapolated for annual estimate.

It makes sense to position the center in an area most convenient to patients. To confirm the advantage of the new location, ODC of Memphis surveyed its largest referring physicians to determine the effect of relocation. Attached are six letters of support from physicians confirming the relocation.

- c. Applications that include a Change of Site for a proposed new health care institution (one having an outstanding and unimplemented CON), provide a response to General Criterion and Standards (4)(a-c) of the <u>Guidelines for Growth</u>. *N/A*
- 2. Describe the relationship of this project to the applicant facility's long-range development plans, if any. The applicant has no long-range development plan other than to provide high-quality, cost-effective outpatient imaging at an accessible location.
- 3. Identify the proposed service area and justify the reasonableness of that proposed area. Submit a county level map including the State of Tennessee clearly marked to reflect the service area. Please submit the map on 8 1/2" x 11" sheet of white paper marked only with ink detectable by a standard photocopier (i.e., no highlighters, pencils, etc.). 83% of the patients at the existing facility reside in Shelby and Tipton Counties. The applicant does not expect patient origin at the new location to be materially different. A service area map is attached as Attachment C.Need.3.
- 4. A. 1). Describe the demographics of the population to be served by this proposal.
 2). Using population data from the Department of Health, enrollee data from the Bureau of TennCare, and demographic information from the US Census Bureau, please complete the following table and include data for each country in your proposed service area:

Demographic	Shelby	Tipton	Service Area Total	State of TN Total
Variable/			Total	Total
Geographic Area				1.700 (00
Total Population	943,812	63,865	1,007,677	6,588,698
2014 Current				
Year				
Total Population	946,559	64,759	1,011,318	6,649,438
-2015				
Projected Year				
Total Population -	0.291%	1.4%	0.36%	0.92%
% Change			L	
*Target	745,669	51,045	79,6714	5,341,069
Population –				
Current Year				
*Target	749,241	52,063	801,304	5,400,137
Population –				
Projected Year				
Target Population	0.479%	1.994%	0.576%	1.106%
- % Change				
Target Population	79.15%	80.39%	79.23%	81.21%

- Projected Year				
as % of Total				
Median Age	34.6	37.2		38.0
Median	46,251	51,847		44,140
Household				
Income				
TennCare	227,622	11,538	239,160	1,194,860
Enrollees				
TennCare	24.12%	18.07%	23.73%	18.13%
Enrollees as % of				
Total				
Persons Below	184,297	6,103	190,400	1,069,017
Poverty Level				
Persons Below	19.53%	9.56%	18.9%	16.22%
Poverty Level as				
% of Total	-			

^{*}Target Population is population that project will primarily serve. For example, nursing home, home health agency, hospice agency projects typically primarily serve the Age 65+ population; projects for the discontinuance of OB services would mainly affect Females Age 15-44; projects for child and adolescent psychiatric services will serve the Population Ages 0-19. For projects not having a specific target population use the Age 65+ population for the target population variable.

B. Describe the special needs of the service area population, including health disparities, the accessibility to consumers, particularly the elderly, women, racial and ethnic minorities, and low-income groups. Documents how the business plans of the facility will take into consideration the special needs of the service area population.

Shelby County is poorer than the state average and has a higher percentage of TennCare enrollees. The members of WTI have a strong history of fulfilling the needs of the service area population, including providing access for poor and elderly patients. The applicant will adopt the charity care policy applicable to BMG.

5. Describe the existing or certified services, including approved but unimplemented CONs, of similar institutions in the service area. Include utilization and/or occupancy trends for each of the most recent three years of data available for this type of project. Be certain to list each institution and its utilization and/or occupancy individually. Inpatient bed projects must include the following data: admissions or discharges, patient days, average length of stay, and occupancy. Other projects should use the most appropriate measures, e.g., cases, procedures, visits, admissions, etc. Projects including surgery should report the number of cases and the average number of procedures per case.

There are no approved but unimplemented CONs for ODCs in Shelby County. The only approved but unimplemented MRI in the service area is the Methodist Healthcare MRI that was approved at the February 2014 HSDA meeting, CN1311-042.

	UTILIZATI AREA	ON OF MRI'S IN T	HE SERVICE	
	2010	2011	2012	#units
BMH Collierville	1,941	1,891	1,734	1
BMH Memphis	11,517	12,052	11,913	3
Baptist Rehab - Germantown	1,702	1,622	1,596	1
Baptist Rehab - Briarcrest	370	585	650	1
Delta Medical Center	880	1,006	787	
LeBonheur	3,856	4,663	5,357	2
Methodist Germantown	8,313	7,698	6,557	2
Methodist South	3,536	4,073	4,139	1
Methodist North	6,359	6,058	6,092	2
Methodist University	9,136	9,677	9,803	3
Regional Med	3,733	3,927	4,491	1
St. Francis	6,159	5,482	5,393	3
St. Francis Bartlett	3,030	3,257	3,642	2
St. Jude	9,467	10,031	6,241	4
BMH Tipton	1,213	1,143	1,265	1
Campbell Clinic	8,081	6,502	6,321	1
Diagnostic Imaging- Memphis	4,540	6,358	6,538	1
MSK Group - Covington Pike	3,420	3,096	3,140	1
MSK Group - Briarcrest	4,043	4,508	4,489	
Neurology Clinic	3,370	3,168	3,160	1
Outpatient Diagnostic Center	2,389	2,207	2,214	1

			2
3,857	3,080	2,681	
			2
7,327	7,300	6,490	
1,393	1,398	1,309	
			1
1,304	1,662	1,564	
	7,327 1,393	7,327 7,300 1,393 1,398	7,327 7,300 6,490 1,393 1,398 1,309

There is 1 MRI at BMH Women's, but it only began operation in Oct. 2013, so no data is available.

6. Provide applicable utilization and/or occupancy statistics for your institution for each of the past three (3) years and the projected annual utilization for each of through the two (2) years following completion of the project. Additionally, provide the details regarding the methodology used to project utilization. The methodology must include detailed calculations or documentation from referral sources, and identification of all assumptions.

MRI Utilization

		TITLE CITTO				
Year	2011*	2012	2013	2014**	Year 1	Year 2
MRI Procedures	1918	2214	2564	2750	3528	3602

^{*} OiA acquired the center Mar 2011 so 10 months data are extrapolated for annual estimate

Projected MRI utilization is based on the current facility's historical utilization. WTI expects to continue to see its existing patients. In addition, WTI expects some growth because the MRI at the new location will provide arthrograms, which are MRI studies of joints. Two of the MSIT radiologists who will read scans at the new location have specific expertise in arthrograms and the applicant expects patients to be referred to the facility for these procedures.

Utilization of Other Modalities

Citization of Other mounties	
Year 1	Year 2
1,544	1,569
4,649	4,789
2,218	2,264
915	934
	Year 1 1,544 4,649 2,218

^{**2014} is an estimate.

Projected utilization of the other imaging modalities is based on the knowledge and experience of OiA from operating other full-service imaging centers. In addition, the applicant confirmed the reasonableness of the projections using a forecasting tool from the Advisory Board relative to outpatient imaging. This tool indicates total outpatient imaging volumes (excluding patients under 15) in 2012 for various modalities as follows:

148,499
204,217
479,003

The volumes projected at the proposed facility are a small percentage of the total market volumes. The applicant's confidence in the projected utilization is further enhanced based on the involvement in the project of MSIT, a large, highly respected radiology group well-known to the physician community in the area.

ECONOMIC FEASIBILITY

- 1. Provide the cost of the project by completing the Project Costs Chart on the following page. Justify the cost of the project.
 - All projects should have a project cost of at least \$3,000 on Line F. (Minimum CON Filing Fee). CON filing fee should be calculated from Line D. (See Application Instructions for Filing Fee)
 - The cost of any lease (building, land, and/or equipment) should be based on fair market value or the total amount of the lease payments over the initial term of the lease, whichever is greater. Note: This applies to all equipment leases including by procedure or "per click" arrangements. The methodology used to determine the total lease cost for a "per click" arrangement must include, at a minimum, the project procedures, the "per click" rate and the term of the lease.

The fair market value of the space is \$2,221,908.25 (21.653% of the total value of the land and building, which is \$10,261,460). The total amount of the lease payments over the initial term of the lease is \$3,079,800.

- The cost for fixed and moveable equipment includes, but is not necessarily limited to, maintenance agreements covering the expected useful life of the equipment, federal state, and local taxes and other government assessments; and installation charges, excluding capital expenditures for physical plant renovation or in-wall shielding, which should be included under construction costs or incorporated in a facility lease.
- For projects that include new construction, modification, and/or renovation; documentation must be provided from a licensed architect or construction professional that support the estimated construction costs. Please provide a letter that includes:
 - 1. a general description of the project,

- 2. estimate of the cost to construct the project to provide a physical environment, according to applicable federal, state and local construction codes, standards, specifications and requirements and
- attesting that the physical environment will conform to applicable federal standards, manufacturer's specifications and licensing agencies' requirement including the most recent AIA guidelines for design and Construction of Hospital and Health Care Facilities.

A letter from Jack Freeman and Associates, P.C., is attached as Attachment C.Economic Feasibility.1.

PROJECT COSTS CHART

Α.	Cons	truction and equipment acquired by purchase:	
	1.	Architectural and engineering Fees	\$140,000
	2.	Legal, Administrative (Excluding CON Filing Fee)), \$25,000
		Consultant Fees	
	3.	Acquisition of Site	·
	4.	Preparation of Site	-
	5.	Construction Costs	\$2,353,530
	6.	Contigency Fund	
	7.	Fixed Equipment (Not included in Construction Contract)	\$3,324,702
	8.	Moveable Equipment (List all equipment over \$50,000)	\$441,954
	9.	Other (Specify)	
В.	Acqu	isition by gift, donation, or lease:	
	1.	Facility (inclusive of building and land)	\$3,079,800
	2.	Building only	1
	3.	Land only	
	4.	Equipment (Specify)	
	5.	Other (Specify)	
C.	Finar	ncing Costs and Fees	
	1.	Interim Financing	·
	2.	Underwriting Costs	
	3.	Reserve for One Year's Debt Service	8
	4.	Other (Specify)	·
D.		nated Projected Cost	\$10,101,261
	(A+I	3+C)	
E.	CON	Filing Fee	\$22,727.84
F.	Total	Estimated Project Cost TOTAL	\$10,123,989

2. Identify the funding sources for this project.

Please check the applicable item(s) below and briefly summarize how the project will be financed.

<u>X</u> A.	Commercial loanLetter from lending institution or guarantor stating favorable initial contact, proposed loan amount, expected interest rates, anticipated term of the loan, and any restrictions or conditions;
_B.	Tax-exempt bondsCopy of preliminary resolution or a letter from the issuing authority stating favorable initial contact and a conditional agreement from an underwriter or investment banker to proceed with the issuance;
C.	General obligation bonds—Copy of resolution from issuing authority or minutes from the appropriate meeting.
D.	GrantsNotification of intent form for grant application or notice of grant award or
E.	Cash ReservesAppropriate documentation from Chief Financial Officer.
F.	Other—Identify and document funding from all other sources.
A finar	ncing letter is attached as Attachment C.Economic Feasibility.2.

- 3. Discuss and document the reasonableness of the proposed project costs. If applicable, compare the cost per square foot of construction to similar projects recently approved by the Health Services and Development Agency. The proposed construction cost is \$2,353,530 which is \$285 per square foot. This project cost is reasonable as confirmed by the architect. A significant portion of the cost is attributable to shielding for the MRI scanner. Comparisons to recently approved projects are not available from the HSDA, due to insufficient sample size. Additionally, the only ODC projects that have been approved in the last few years have been renovations, rather than new construction. A comparison of renovation cost and new construction cost is not meaningful. The information published by the HSDA for 2008-1010 shows the median cost for ODC renovation projects as \$122.51 per square foot and the 3rd quartile cost is \$196.46 per square foot.
- 4. Complete Historical and Projected Data Charts on the following two pages--Do not modify the Charts provided or submit Chart substitutions! Historical Data Chart represents revenue and expense information for the last three (3) years for which complete data is available for the institution. Projected Data Chart requests information for the two (2) years following the completion of this proposal. Projected Data Chart should reflect revenue and expense projections for the Proposal Only.
- 5. Please identify the project's average gross charge, average deduction from operating revenue, and average net charge.

Average Gross Charge	Average Adjustment	Average Net Charge
\$1,346	\$825	\$521

HISTORICAL DATA CHART

Give information for the last three (3) years for which complete data are available for the facility or agency. The fiscal year begins in <u>Jan</u> (Month)

		Y	ear 2011	Y	ear 2012	Y	ear 2013
A.	Utilization Data (MRI scans)		1,599		2,147		2,564
В.	Revenue from Services to Patients 1. Inpatient Services						
	2. Outpatient Services		2,150,810		2,941,002		3,396,112
	3. Emergency Serivces						
	4. Other Operating Revenue (specify) <u>cafeteria</u> , gift shop, etc.						
	Gross Operating Revenue		2,150,810		2,941,002		3,396,112
C.	Deductions from Gross Operating Revenue						
	1. Contractual Adjustments		1,318,856		1,845,526		2,152,729
	2. Provision for Charity Care		1991		23,234		101,883
	3. Provision for Bad Debt		102,809		147,050		67,922
	Total Deductions		1,421,665		2,015,810		2,322,535
	NET OPERATING REVENUE	\$	729,145	\$	925,192	\$	1,073,577
D.	Operating Expenses						
	1. Salaries and Wages		244,126		263,990		316,936
	2. Physician's Salaries and Wages						
	3. Supplies		15,180		11,885		10,008
	4. Taxes			_			
	5. Depreciation		22,985		30,171		30,241
	6. Rent		47,867		57,440		30,290
	7. Interest, other than Capital						
	8. Management Fees:						
	a. Fees to Affilitates		36,457		45,738		5,000
	b. Fees to Non-Affilitates						
	9. Other Expenses (Specify on separate page)		414,009		497,073		468,585
	Total Operating Expenses	_\$_	780,625	\$	906,298	\$	861,061
E.	Other Revenue (Expenses) - Net (Specify)			\$	(1,519)		
	NET OPERATING INCOME (LOSS)	\$	(51,480)	\$	17,375	\$	212,516
F.	Capital Expenditures						
	1. Retirement of Principal						
	2. Interest						

Total Capital Expenditures	**	0	0	 0
NET OPERATING INCOME (LOSS) LESS CAPITAL EXPENDITURES	\$	(51,480)	\$ 17,375	\$ 212,516

^{*}Accrued Use Tax and Accrued Use Tax Interest

^{**2011} data reflects March - December (acquired center in March 2011)

PROJECTED DATA CHART - FULL PROJECT

Give information for the two (2) years following the completion of this proposal. The fiscal year begins in January.

			Year <u>1</u>	Year 2
A.	Utiliz	zation Data (all imaging procedures)	12,853	13,517
B.	Reve	nue from Services to Patients		
	1.	Inpatient Services	\$	\$
	2.	Outpatient Services	\$9,041,868	\$9,041,868
	3.	Emergency Services		
	4.	Other Operating Revenue (Specify)		
		Gross Operating Revenue	\$9,041,868	\$ <u>9,041,868</u>
C.	Dedu	actions from Gross Operating Revenue		
	1.	Contractual Adjustments	\$ <u>5,649,923</u>	\$ <u>5,888,958</u>
	2.	Provision for Charity Care	\$271,256	\$282,732
	3.	Provisions for Bad Debt	\$180,837	<u>\$188,488</u>
		Total Deductions	\$ <u>6,102,017</u>	\$ <u>6,360,178</u>
NET	OPER	ATING REVENUE	\$2,939,851	\$ <u>3,064,229</u>
D.	Oper	ating Expenses		
	1.	Salaries and Wages	\$539,146	\$ <u>548,919</u>
	2.	Physician's Salaries and Wages	\$	p=====================================
	3.	Supplies	\$133,965	<u>\$136,808</u>
	4.	Taxes	-	
	5.	Depreciation	\$789,668	<u>\$789,668</u>
	6.	Rent	\$281,267	<u>\$286,893</u>
	7.	Interest other than Capital	(<u> </u>	-
	8.	Management Fees:		04.70.040
		a. Fees to Affiliates	\$146,993	<u>\$153,212</u>
	0	b. Fees to Non-Affiliates	\$900,761	\$1,043,923
	9.	Other Expenses – Specify on Page 23	\$2,791,799	\$2,959,421
-	0.1	Total Operating Expenses	\$ <u>2,791,799</u> \$	\$
E.		r Revenue (Expenses) – Net (Specify)	\$148,052	\$ <u>104,807</u>
		ATING INCOME (LOSS)	\$140,032	\$ <u>104,607</u>
F.	_	tal Expenditures	\$600.163	\$704 <u>,034</u>
	1.	Retirement of Principal	\$690,162 \$226,910	\$193,038
	2.	Interest Tatal Capital Expanditures		
******	OPET	Total Capital Expenditures	\$ <u>917,072</u>	\$ <u>897,072</u>
NET		RATING INCOME (LOSS) S CAPITAL EXPENDITURES	(\$769,020)	(\$792,264)

PROJECTED DATA CHART - MRI ONLY

	Year 1	Year 2
Utilization Data (MRI scans)	3,528	3,602
Revenue from Services to Patients		
1. Inpatient Services	Φ4.750.207	Φ4 050 155
2. Outpatient Services	\$4,750,397	\$4,850,155
3. Emergency Serivces		
4. Other Operating Revenue (specify)	\$	
Gross Operating Revenue	T	\$ 4,850,155
Deductions from Gross Operating Revenue		
1. Contractual Adjustments	2,688,290	2,707,486
2. Provision for Charity Care	142,512	145,505
3. Provision for Bad Debt	95,008	97,003
Total Deductions		2,949,994
NET OPERATING REVENUE Operating Expenses	\$ 1,824,587	\$ 1,900,161
 Salaries and Wages Physician's Salaries and Wages 	283,231	286,533
3. Supplies4. Taxes	52,731	53,838
5. Depreciation	507,044	507,044
6. Rent7. Interest, other than Capital	174,566	178,057
8. Management Fees To Affiliates	91,229	95,008
9. Other Expenses (Specify)	543,015	634,195
Total Operating Expenses Other Expenses (Revenue) - Net (Specify)	\$1,651,816	\$ 1,754,675

NET OPERATING INCOME (LOSS)		\$172,771	\$ 145,486
Capital Expenditures			
1. Retirement of Principal		434,856	 446,399
2. Interest		145,065	123,523
Total Capital 1	Expenditures	579,922	569,922
NET OPERATING INCOME (LOSS) LESS CAPITAL EXPENDITURES	į.	\$(407,151)	\$ (424,436)

Historical DATA CHART-OTHER EXPENSES

OTHER EXPENSES CATEGORIES	2011	2012	2013
Professional Fees	\$ 116,663	\$ 146,353	\$ 179,181
Equipment Lease & Service	\$ 81,409	\$ 126,774	\$ 109,938
Billing Fees	\$ 36,457	\$ 45,738	\$ 5,000
General and Administrative Expense	\$ 179,480	\$ 178,207	\$ 174,466
5			
6			
7			
Total Other Expenses	\$ 414,009	\$ 497,073	\$ 468,585

PROJECTED DATA CHART – F	ull I	Project – O	THE	R EXPENSES
	Ye	ar 1	Y	ear 2
OTHER EXPENSES CATEGORIES				
Professional Fees	\$	470,377	\$	490,277
Equipment Lease & Service	\$	-	\$	182,500
Billing Fees	\$	146,993	\$	5 153,212
General and Administrative Expense	\$	226,391	\$	183,854
Information Technology Related	\$	57,000	\$	34,080
2		000 5/1		21 0 42 022
Total Other Expenses	\$	900,761		\$1,043,923
Total Other Expenses PROJECTED DATA CHART—	MRI	Only – OT	HEI	R EXPENSES
PROJECTED DATA CHART—I	MRI		HEI	
-	MRI	Only – OT	HEI	R EXPENSES
PROJECTED DATA CHART—I	MRI Ye	Only – OT ar 1	HEI Ye	R EXPENSES ar 2
PROJECTED DATA CHART—I OTHER EXPENSES CATEGORIES Professional Fees	MRI Ye	Only – OT ar 1	HEI Ye \$	R EXPENSES ar 2
PROJECTED DATA CHART—I OTHER EXPENSES CATEGORIES Professional Fees Equipment Lease & Service	MRI Ye	Only – OT ar 1 291,934	THEI Ye	R EXPENSES ar 2 304,026 100,000
PROJECTED DATA CHART—I OTHER EXPENSES CATEGORIES Professional Fees Equipment Lease & Service Billing Fees	MRI Ye \$ \$	Only – OT ar 1 291,934 - 91,229	THEI Ye \$ \$	R EXPENSES ar 2 304,026 100,000 95,008
PROJECTED DATA CHART—I OTHER EXPENSES CATEGORIES Professional Fees Equipment Lease & Service Billing Fees General and Administrative Expense	MRI Ye \$ \$ \$	Only – OT ar 1 291,934 - 91,229 124,475	THEI Ye \$ \$ \$	R EXPENSES ar 2 304,026 100,000 95,008 114,010

6. A. Please provide the current and proposed charge schedules for the proposal. Discuss any adjustment to current charges that will result from the implementation of the proposal. Additionally, describe the anticipated revenue from the proposed project and the impact on existing patient charges. There will be no changes to charges as a result of this project. The current average gross charge is \$1,325.

B. Compare the proposed charges to those of similar facilities in the service area/adjoining service areas, or to proposed charges of projects recently approved by the Health Services and Development Agency. If applicable, compare the proposed charges of the project to the current Medicare allowable fee schedule by common procedure terminology (CPT) code(s).

The median gross charge for MRI services, per the HSDA equipment registry, is \$2,106.03.

Scan	Medicare Allowable	OiA Charges
Mri lumbar spine w/o dye	\$224.93	\$1,404.00
Mri jnt of lwr extre w/o dye	\$234.75	\$1,111.00
Mri neck spine w/o dye	\$224.75	\$1,354.00
Mri joint upr extrem w/o dye	\$234.43	\$1,131.00
Mri brain w/o dye	\$226.49	\$1,486.00

7. Discuss how projected utilization rates will be sufficient to maintain cost-effectiveness; how financial viability will be ensured within two years; and demonstrate the availability of sufficient cash flow until financial viability is achieved.

MRI is an existing service. This project will round out the current imaging services with CT, ultrasound, x-ray, and fluoroscopy. Adding these additional modalities in one facility will increase the cost-effectiveness of the current services because the center will be able to spread the fixed administrative costs such as patient waiting and sub-waiting, IT systems, and reception and scheduling to all modalities not just MRI. In addition, the applicant anticipates some of the clinical staff will be cross trained on different modalities providing for an efficient level of staffing.

It is anticipated that upon opening of the location, the partners will fund the entity with \$2.55 million in working capital to cover the center's startup phase.

8. Discuss the project's participation in state and federal revenue programs including a description of the extent to which Medicare, TennCare/Medicaid, and medically indigent patients will be served by the project. In addition, report the estimated dollar amount of revenue and percentage of total project revenue anticipated from each of TennCare, Medicare, or other state and federal sources for the proposal's first year of operation.

The center currently is enrolled with Medicare and TennCare/Medicaid. There are no restrictions or limitations for patients to use the services of the facility. The center treats all patients regardless of their ability to pay for services and will continue this policy at the new location. As mentioned above, the facility will adopt the charity care policy of BMG and its affiliates.

Year 1

	Gross Revenue	Percentage of Overall Revenue
TennCare/Medicaid	\$361,674.72	4%
Medicare	\$542,512.08	6%

- 9. Provide copies of the balance sheet and income statement from the most recent reporting period of the institution and the most recent audited financial statements with accompanying notes, if applicable. For new projects, provide financial information for the corporation, partnership, or principal parties involved with the project. Copies must be inserted at the end of the application, in the correct alpha-numeric order and labeled as Attachment C, Economic Feasibility-10. Financial information for the existing facility is attached as Attachment C, Economic Feasibility-10. The facility does not have an audited financial statement for 2013. The attached statement is for the OiA entity that owns 3 facilities in Tennessee: Outpatient Center of Memphis, Outpatient Center of Nashville, and Outpatient Center of Knoxville.
- 10. Describe all alternatives to this project which were considered and discuss the advantages and disadvantages of each alternative including but not limited to:
 - a. A discussion regarding the availability of less costly, more effective, and/or more efficient alternative methods of providing the benefits intended by the proposal. If development of such alternatives is not practicable, the applicant should justify why not; including reasons as to why they were rejected.
 - b. The applicant should document that consideration has been given to alternatives to new construction, e.g., modernization or sharing arrangements. It should be documented that superior alternatives have been implemented to the maximum extent practicable.

This application is to relocate an existing MRI unit currently operating in the market. The other alternative is to keep the MRI unit where it is. After consideration this idea was rejected for the following reasons. First, the new location for the facility is more centrally located to the patient base. Second, this project will round out the current imaging services with CT, ultrasound, x-ray, and fluoroscopy. There is not enough space in the current location to add these modalities. Additionally, the existing location is not as accessible for elderly or handicapped patients. Because it is in a strip-mall, patients have to park in the general retail parking lot and walk to the facility. The new location allows for dedicated parking, close to the building, with a covered patient drop off area.

CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTH CARE

- 1. List all existing health care providers (e.g., hospitals, nursing homes, home care organizations, etc.), managed care organizations, alliances, and/or networks with which the applicant currently has or plans to have contractual and/or working relationships, e.g., transfer agreements, contractual agreements for health services. The applicant will have a transfer agreement with Baptist Memorial Health Care. A list of entities with which WTI will have contractual agreements is attached as Attachment C.Contribution to the Orderly Development of Health Care. 1.
- 2. Describe the positive and/or negative effects of the proposal on the health care system. Please be sure to discuss any instances of duplication or competition arising from your proposal including a description of the effect the proposal will have on the utilization rates of existing providers in the service area of the project. This application is to, essentially, relocate an existing MRI scanner; therefore, this project will not add MRI capacity in Shelby County. There will be no negative effect on existing providers.

Provide the current and/or anticipated staffing pattern for all employees providing patient care for the project. This can be reported using FTEs for these positions. Additionally, please compare the clinical staff salaries in the proposal to prevailing wage patterns in the service area as published by the Tennessee Department of Labor & Workforce Development and/or other documented sources.

Position	FTE	Salary	Dept. of Labor Salary Rate
MRI Technologist	1.33	\$60,000	\$59,000
Ultrasound Technologist	1.33	\$60,000	\$59,000
X-Ray/CT Technologist	1.5	\$60,000	\$59,000

- 4. Discuss the availability of and accessibility to human resources required by the proposal, including adequate professional staff, as per the Department of Health, the Department of Mental Health and Substance Abuse Services, and/or the Department of Intellectual and Developmental Disabilities licensing requirements.
 - Most of the staff that will be needed is currently employed at the existing OiA facility. Additional staff members will be needed for ultrasound, x-ray, and CT. The applicant does not anticipate any difficulty in hiring qualified staff.
- 5. Verify that the applicant has reviewed and understands all licensing certification as required by the State of Tennessee for medical/clinical staff. These include, without limitation, regulations concerning physician supervision, credentialing, admission privileges, quality assurance policies and programs, utilization review policies and programs, record keeping, and staff education. The existing facility is licensed by the State of Tennessee. The applicant has reviewed and understands all licensing requirements.
- 6. Discuss your health care institution's participation in the training of students in the areas of medicine, nursing, social work, etc. (e.g., internships, residencies, etc.).
 - The existing facility does not participate in the training of students. West Tennessee Imaging, LLC, may participate in the training of students in the future because of the involvement of BMG and MSIT as partners in the joint venture.
- a. Please verify, as applicable, that the applicant has reviewed and understands the licensure requirements of the Department of Health, the Department of Mental Health and Substance Abuse Services the Department of Intellectual and Developmental Disabilities, and/or any applicable Medicare requirements. The applicant is aware of and will comply with all licensing requirements for ODCs.
 - b. Provide the name of the entity from which the applicant has received or will receive licensure, certification, and/or accreditation.
 - Licensure: The applicant will be licensed by the Tennessee Department of Health.
 - Accreditation: The applicant will seek accreditation by the American College of Radiology.
 - c. If an existing institution, please describe the current standing with any licensing, certifying, or accrediting agency. Provide a copy of the current license of the facility. *The applicant is*

- not currently licensed. OiA is currently licensed as an ODC, and a copy of that license is attached as Attachment C.Contribution to the Orderly Development of Health Care.7.c.
- d. For existing licensed providers, document that all deficiencies (if any) cited in the last licensure certification and inspection have been addressed through an approved plan of correction. Please include a copy of the most recent licensure/certification inspection with an approved plan of correction. Please also discuss what measures the applicant has or will put in place to avoid being cited for similar deficiencies in the future. A copy of the most recent survey is attached as Attachment C. Contribution to the Orderly Development of Health Care. 7.d.
- 8. Document and explain any final orders or judgments entered in any state or country by a licensing agency or court against professional licenses held by the applicant or any entities or persons with more than a 5% ownership interest in the applicant. Such information is to be provided for licenses regardless of whether such license is currently held. *None*
- 9. Identify and explain any final civil or criminal judgments for fraud or theft against any person or entity with more than a 5% ownership interest in the project. *None*
- If the proposal is approved, please discuss whether the applicant will provide the Tennessee Health Services and Development Agency and/or the reviewing agency information concerning the number of patients treated, the number and type of procedures performed, and other data as required.

The Applicant will provide all required information to state and federal agencies.

PROOF OF PUBLICATION

Attach the full page of the newspaper in which the notice of intent appeared with the mast and dateline intact or submit a publication affidavit from the newspaper as proof of the publication of the letter of intent.

DEVELOPMENT SCHEDULE

Tennessee Code Annotated § 68-11-1609(c) provides that a Certificate of Need is valid for a period not to exceed three (3) years (for hospital projects) or two (2) years (for all other projects) from the date of its issuance and after such time shall expire; provided, that the Agency may, in granting the Certificate of Need, allow longer periods of validity for Certificates of Need for good cause shown. Subsequent to granting the Certificate of Need, the Agency may extend a Certificate of Need for a period upon application and good cause shown, accompanied by a non-refundable reasonable filing fee, as prescribed by rule. A Certificate of Need which has been extended shall expire at the end of the extended time period. The decision whether to grant such an extension is within the sole discretion of the Agency, and is not subject to review, reconsideration, or appeal.

- 1. Please complete the Project Completion Forecast Chart on the next page. If the project will be completed in multiple phases, please identify the anticipated completion date for each phase.
- 2. If the response to the preceding question indicates that the applicant does not anticipate completing the project within the period of validity as defined in the preceding paragraph, please state below any request for an extended schedule and document the "good cause" for such an extension.

NOTIFICATION OF INTENT TO APPLY FOR A CERTIFICATE OF NEED

This is to provide official notice to the Tennessee Health Services and Development Agency ("Agency") and all interested parties, in accardance with T.C.A. 5 60-11-1501 et seq., and the Rules of the Agency, that West Tennessee Imaging, 4/b/a to be determined, owned by West Tennessee Imaging, 1LC, intends to file an application for a certificate of need to establish an outpatient diagnostic center ("ODC") and initiate magnetic resonance imaging ("MRI") services at 7600 Wolf River Blvd, Memphis, TN 38128, and to acquire major medical equipment (MRII). The project will require approximately 3,258 square leet of new construction. The project, in effect, will relocate an existing ODC, Outpatient Diagnostic Center of Memphis, currently located at 5130 Stage Road, Memphis, TN 38134, Upon licensing of the proposed facility, the license for Outpatient Diagnostic Center of Memphis will be relinquished and MRI services at that location will cease. The total project cost under certificate of need rules is estimated to be \$10.127.599.

The anticipated date of filing the application is March 14, 2014. The contact person for this project is Perry Baker, CFO of Outpatient Imaging Affiliates, who may be reached at 840 Crescent Center Drive, Suite 200, Franklin, TN, 37067, (615) 550-6000.

Opon written request by interested parties, a local Fact-Finding public hearing shall be conducted. Written requests for hearing should be

Fennessee Health Services and Development Agency Andrew Jackson Building 500 Deaderick Street, 9th Floor Nashville, TN 37243

Pursuant to TCA Sec. 58-11-1607(c)(1). (A) any health care institution wishing to oppose a Certificate of Need application must file a written notice with the Health Services and Development Agency on later than fitteen (15) days before the regularly scheduled Health Services and Development Agency meeting at which the application is originally scheduled; and (B) any other person wishing to oppose the application must file written objection with the Health Services and Development Agency at or prior to the consideration of the application by the Agency.

Call 901-529-2700

or Email us at classad@commercialappeal.com

THE COMMERCIAL APPEAL

178697 339000

PROJECT COMPLETION FORECAST CHART

Enter the Agency projected Initial Decision date, as published in T.C.A. § 68-11 609(c): June 25, 2014

Assuming the CON approval becomes the final agency action on that date; indicate the number of days from the above agency decision date to each phase of the completion forecast.

Phase		DAYS REQUIRED	Anticipated Date (MONTH/YEAR)
1.	Architectural and engineering contract signed	40	7/30/2014
2. Dep	Construction documents approved by the Tennessee artment of Health	30	9/1/2014
3.	Construction contract signed	33	9/1/2014
4.	Building permit secured	42	10/13/2014
5.	Site preparation completed	14	10/20/2014
6.	Building construction commenced		10/20/2014
7.	Construction 40% complete	70	12/22/2014
8.	Construction 80% complete	65	3/12/2015
9.	Construction 100% complete (approved for occupancy)	33	4/14/2015
10.	*Issuance of license	14	5/1/2014
11.	*Initiation of service	14	5/1/2014
12.	Final Architectural Certification of Payment	35	6/29/2014
13.	Final Project Report Form (HF0055)	21	6/20//2015

^{*} For projects that do NOT involve construction or renovation: Please complete items 10 and 11 only.

Note: If litigation occurs, the completion forecast will be adjusted at the time of the final determination to reflect the actual issue date.

AFFIDAVIT

STATE OF TENNESSEE

COUNTY OF WILLIAMSON

being first duly sworn, says that he/she is the applicant named in this application or his/her lawful agent, that this project will be completed in accordance with the application, that the applicant has read the directions to this application, the Tennessee Health Services and Development Agency and T.C.A. § 68-11-1601, et seq., and that the responses to questions in this application or any other questions deemed appropriate by the Tennessee Health Services and Development Agency are true and complete.

Signature/Title

NOTARY PUBLIC

My Commission expires 4011 15, 201

STATE OF TENNESSEE NOTARY PUBLIC ON THE PUBLIC OF THE PUBL

HF-0056

Revised 7/02 - All forms prior to this date are obsolete

A.4.

Documentation of Ownership



STATE OF TENNESSEE Tre Hargett, Secretary of State

Division of Business Services

William R. Snodgrass Tower 312 Rosa L. Parks AVE, 6th FL Nashville, TN 37243-1102

BUTLER SNOW LLP DAN H ELROD, ESQ STE 1600 150 3RD AVE S NASHVILLE, TN 37201-2046

Request Type: Certified Copies

Request #:

. 122347

Issuance Date:

03/06/2014

Copies Requested: 1

Document Receipt

Receipt #: 1354775

1354//5

Filing Fee:

\$20.00

Payment-Check/MO - BUTLER SNOW LLP, NASHVILLE, TN

\$20.00

I, Tre Hargett, Secretary of State of the State of Tennessee, do hereby certify that **West Tennessee Imaging, LLC**, Control # 733980 was formed or qualified to do business in the State of Tennessee on 10/04/2013. West Tennessee Imaging, LLC has a home jurisdiction of TENNESSEE and is currently in an Active status.

Tre Hargett Secretary of State

Processed By: Sheila Keeling

The attached document(s) was/were filed in this office on the date(s) indicated below:

Reference #

Date Filed

Filing Description

7247-0066

10/04/2013

Initial Filing

ARTICLES OF ORGANIZATION

OF

WEST TENNESSEE IMAGING, LLC

The undersigned individual acting as the organizer of a limited liability company under the provisions of the Tennessee Revised Limited Liability Company Act (the "Act"), adopts the following Articles of Organization (the "Articles"):

- 1. Name. The name of the limited liability company is: West Tennessee Imaging, LLC (the "LLC").
- 2. Registered Office and Agent. The name and complete address of the LLC's initial registered agent and office located in the State of Tennessee is: Paul T. Nowak, Jr., 133 Holiday Court, Suite 203, Franklin, Williamson County, Tennessee 37067-1301.
- 3. **Organizer**. The organizer of the LLC is Greg Giffen, whose address is 333 Commerce Street, Suite 1500, Nashville, Tennessee 37201.
- 4. **Management**. The LLC will be member-managed. The business and affairs of the LLC will be conducted under the exclusive management of its members who will have exclusive authority to act for the LLC in all matters and who, pursuant to Section 48-249-101(a) of the Act, will make all management decisions and take all management actions based on their proportionate interests in the LLC's governance rights.
- 5. **Operating Agreement**. Any operating agreement or subsequent amendment to an operating agreement of the LLC must be in writing and may not be amended or supplemented orally.
- 6. **Number of Members.** On the date of the filing of these Articles, the LLC has one (1) member.
- 7. **Date of Formation**. The existence of the LLC is to begin upon the filing of these Articles.
- 8. **Principal Executive Office**. The complete address of the LLC's principal executive office is 840 Crescent Centre Drive, Suite 200, Franklin, Williamson County, Tennessee 37067-4652.
- 9. **Perpetual Existence**. Except as otherwise provided in an operating agreement among the LLC's members then in effect or as voted by the LLC's members in accordance with T.C.A. Section 48-249-603, the LLC shall continue in perpetuity.
- 10. **Profits and Losses**. Except as otherwise provided in an operating agreement among the LLC's members then in effect, profits and losses of the LLC shall be allocated among its members (and their assignees) based on their proportionate financial rights in the LLC.

- 11. **Distributions**. Except as otherwise provided in an operating agreement among the LLC's members then in effect, distributions of cash or other assets of the LLC shall be allocated among its members (and their assignees) based on their proportionate financial rights in the LLC.
- 12. **Voting Rights**. Except as otherwise provided in an operating agreement among the LLC's members then in effect, the members shall have voting rights based on their proportionate governance rights in the LLC.
- 13. **Preemptive Rights**. Members of the LLC or parties (other than the LLC) to a contribution agreement or a contribution allowance agreement shall not have preemptive rights.
- 14. Assignment of Membership Interests. A member's membership interest, including financial rights and governance rights, in the LLC may not be assigned in whole or in part except as provided in an operating agreement among the LLC's members then in effect; provided, however, if no operating agreement among the LLC's members is then in effect, then a member's membership interest, including financial rights and governance rights, in the LLC may not be assigned in whole or in part absent the unanimous written consent of all members.
- No Agency of Members. No member, as such, of the LLC is an agent of the LLC for the purpose of its business, including the execution of any instrument in the name of the LLC, or can bind the LLC unless the member is (i) designated in an operating agreement among the LLC's members then in effect as being so authorized, (ii) a person designated by valid action of the members as being so authorized, or (iii) the sole member of the LLC.
- 16. **Indemnification**. In addition to the mandatory indemnification provided in Section 48-249-115(c) of the Act, the LLC shall advance and pay for the reasonable expenses incurred by a member or manager who is a party to a proceeding because he or she is or was a "responsible person" as such person is defined in Section 48-249-115 of the Act, provided the requirements of the Act are met.

The undersigned is acting solely in the capacity of organizer for the purpose of forming the LLC and he shall have no liability whatsoever for acts done or purportedly done on behalf of the LLC.

October 4, 2013

ree Giffen Organize

MEMORANDUM OF UNDERSTANDING

Mr. Zach Chandler Vice President Baptist Memorial Health Care Baptist Memorial Medical Group, Inc. 350 N. Humphreys Boulevard Memphis, TN 38120

Dexter H. Witte, M.D.
President
Mid-South Imaging and Therapeutics, PA
6305 Humphreys Blvd., Suite 205
Memphis, TN 38120

Mr. Cannon King President Outpatient Imaging Affiliates, LLC OIA of Memphis, LLC 840 Crescent Centre Drive, Suite 200 Franklin, TN 37067

This Memorandum of Understanding ("MOU") sets forth and confirms the proposed terms by and between Baptist Memorial Medical Group, Inc. ("Baptist"), Mid-South Imaging and Therapeutics, P.A. ("MSIT") and OIA of Memphis, LLC, a subsidiary of Outpatient Imaging Affiliates, LLC ("OIA") will establish a joint venture (the "Joint Venture") to own and operate a diagnostic imaging center proposed to be located at 7600 Wolf River Blvd, Memphis, Tennessee (the "Imaging Center"). The Joint Venture will be organized as a Tennessee Limited Liability Company operated under the name West Tennessee Imaging, LLC ("JVLLC").

OAI currently operates an outpatient diagnostic center at 5130 Stage Road, Memphis, TN. Under the Joint Venture arrangement, JVLLC will file a certificate of need to establish the Imaging Center as a relocation of the existing OAI facility. OIA will relinquish the license for the existing outpatient diagnostic center upon a license being issued for the Imaging Center.

Under the Joint Venture arrangement, Baptist will own an eighty percent (80%) interest in JVLLC. MSIT will own a five percent (5%) interest in JVLLC, and its physician/radiologist owners will provide the professional interpretative services at the Imaging Center pursuant to terms set forth in a Professional Services Agreement. OIA will own a fifteen percent (15%) interest in JVLLC, and it will provide the administrative, billing and management services necessary to operate the Imaging Center pursuant to terms set forth in a Management and Billing Services Agreement (the "MBSA").

OIA will manage the day to day affairs of the Imaging Center pursuant to the MBSA, but management of the Imaging Center will be under the ultimate control of a Board of Directors

Error! No document variable supplied. Error! Unknown document property name. made up of four members. Two of those directors will be appointed by Baptist, and OIA and MSIT will each appoint one director. In the event of any deadlock of the Board of Directors, Baptist will determine the proper course of action for the Joint Venture.

The obligations of the parties to this Memorandum of Understanding are subject (1) to a certificate of need being granted for the Imaging Center, with all appeals of such certificate of need having been exhausted, and (2) parties executing final definitive documents setting forth mutually acceptable terms and conditions of the Joint Venture.

BAPTIST:

BAPTIST MEMORIAL MEDICAL GROUP, INC.

Name: Pach Chenter

MSIT:

MID-SOUTH IMAGING AND THERAPEUTICS,

By: [// (/

Name: KOBERT 3

Title: VICE PRESIDENT MID SOUTH INKING & THERMETHE

OIA:

OIA of MEMPHIS, LLC

anne

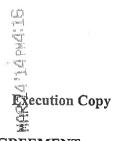
Name:

Title:

et Manager

A.5.

Management Agreement



DEVELOPMENT, MANAGEMENT AND BILLING SERVICES AGREEMENT

This Development, Management and Billing Services Agreement (the "Agreement") is made effective as of October ___, 2013, by and between West Tennessee Imaging, a Tennessee limited liability company ("Client" or "Company"), and Outpatient Imaging Affiliates, LLC, a Tennessee limited liability company ("OIA" or "Manager").

NOW, THEREFORE, in consideration of the promises and agreements set forth below, THE PARTIES AGREE:

1. RECITALS

- 1.1. OIA OIA is a limited liability company organized under the laws of the State of Tennessee, with its principal offices located at Outpatient Imaging Affiliates, LLC, 840 Crescent Centre Drive, Suite 200, Franklin, Tennessee 37067. OIA is primarily engaged in the development and management of outpatient diagnostic imaging facilities.
- 1.2. Client. Client is a limited liability company organized under the laws of the State of Tennessee. OIA is an equity owner of Client and party to that certain Operating Agreement of the Company of even date herewith (the Operating Agreement"). Under the terms of the Operating Agreement, OIA is to be retained as the manager of the Company's operations and the parties have entered into this Agreement to satisfy that requirement.
- 1.3. Purpose. Client wishes to retain OIA to provide, under Client's direction, the development, management and billing services stated herein concerning the Client's diagnostic imaging center located at (i) 5130 Stage Road, Memphis, Tennessee, with any additional diagnostic imaging centers acquired or developed by the Company from time to time, the "Centers"). OIA agrees that all obligations of OIA, and all obligations of any personnel under OIA's supervision, pursuant to this Agreement shall be performed in accordance with all applicable laws, rules and regulations, and all applicable industry standards which comply with such laws, rules and regulations.
- 1.4. <u>Effective Date</u>. The effective date of this Agreement ("Effective Date") shall be the first date stated above.

2. DEVELOPMENT AND ACQUISITION SERVICES

- 2.1. <u>Engagement</u>. Client hereby engages OIA to provide the following services in connection with the development of the Centers, subject to Client's overall direction and control and to all the terms and provisions hereof.
- 2.1.1. Equipment/Furnishings/Supplies: selecting and recommending to Client for purchase or lease, imaging and office equipment, furniture, furnishings and supplies as needed from time to time for the Centers, including evaluation of the needs of the Centers for such items, vendor selection and negotiation of purchase or lease terms (including price, associated discounts, financing and equipment maintenance agreements). It is anticipated that the Centers will operate with high-field MR equipment and other modalities (with final specifications and vendors of choice to be determined by the Board (as defined in the Operating

- Agreement)). New and pre-owned or refurbished equipment will be considered. The equipment will be placed under a service agreement with the original equipment manufacturer or a reputable independent service operator. It is also anticipated that the Centers will be designed to operate in a digital environment. The final scope of services operated by the Centers, including equipment, staffing, space needs, specific locations, and estimated costs of leasehold improvements will be subject to Board approval.
- 2.1.2. <u>Information Systems</u>: selecting and recommending to Client for purchase or lease, all information systems, including RIS, PACS, transcription, workstations and network connectivity, which information systems will be intended to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA) data transaction standards and security regulations; OIA utilizes the Merge platform for its Radiology Information System (RIS) which is a key OIA management tool. While all parties acknowledge that all Centers will conduct their day-to-day operations primarily using the Merge RIS platform, OIA agrees to also integrate with the Baptist One-Care medical record system using industry recognized standards so that each Center will be able to receive orders for studies, engage in clinical communications with the ordering physician and/or entity and output study results, reports and other clinical data using the Baptist One-Care medical record system.
- 2.1.3. <u>Personnel</u>: arranging for employment or engagement of technologists and administrative personnel necessary to staff the Centers as hereinafter provided;
- 2.1.4. <u>Certificates/Licenses</u>: supervising and taking appropriate actions to obtain all necessary certificates, licenses, permits, CON's and provider numbers from regulatory agencies, governmental payors and their agents, and commercial payors necessary to develop, open and operate the Centers;
- 2.1.5. <u>Financing</u>: arranging the financing for equipment, leasehold improvements and working capital needs for the Centers, subject to Board approval. On a commercial best efforts basis, OIA will seek to finance or lease the equipment and leasehold improvements over a multi-year period on a non-recourse basis. A bank line, secured by Company receivables, may also be used to fund start-up expenses and working capital needs until such time as the Company achieves a sustainable level of positive cash flow;
- 2.1.6. Other Development Tasks: supervising, providing or taking appropriate actions to obtain all other services reasonably necessary for the development of the Centers;
- 2.1.7. New Center Development: OIA, in coordination with the Company and its members, will assume responsibility for supervising and directing all aspects of organizing, developing, equipping, financing and developing new Centers approved by the Company. Development related costs, including travel, architectural, construction management and related fees, incurred by OIA, will be reimbursed by the Company. OIA will be responsible for presenting progress reports to the Board on a regular basis.
- 2.1.8. <u>Center Acquisitions</u>: OIA, in coordination with the Company and its members, will assume responsibility for supervising and directing all aspects of pursuing, communicating, sharing information, and analyzing the due diligence process related to all

Board-approved acquisitions. Reasonable acquisition related costs, including travel, negotiation, due diligence, legal and related fees, incurred by OIA, will be reimbursed by the Company, subject to Board approval. OIA will be responsible for communicating to the Board with regular updates throughout this process.

2.1.9. Other Assistance: supervising, providing or taking appropriate actions as to such other matters as the parties may agree in writing.

MANAGEMENT AND BILLING SERVICESSubject to the direction and approval of the Client, OIA shall perform the following management and billing services pursuant to this Agreement:

- Management. OIA shall have the authority and responsibility to supervise and manage the day-to-day operations of the Centers according to the terms of this Agreement and the applicable Operating Plan and Budget (defined below) approved by Client, unless otherwise directed by Client. Such authority and responsibility of OIA shall include scheduling of imaging procedures, reception and registration of patients, supervising the performance of the technical component of procedures, billing and collection of revenues, disbursement of funds, coordination with third party payers, obtaining required supplies, utilities, and services, provision of accounting services, financial analysis and management reporting, adoption and implementation of marketing plans, and providing such other services as are required for the efficient operation of the Centers; OIA shall carry out its duties hereunder in a professional manner and in accordance with all Client's policies (as may be amended by Client from time to time) and with industry standards, and in compliance with all applicable laws, regulations, and rules. All marketing activities will be conducted in conformance with all applicable federal and state laws and regulations. OIA shall keep Client informed as directed by Client concerning all material matters involving the Centers. If OIA requires, but following exercise of its reasonable best efforts cannot obtain, Client's direction concerning a matter involving the Centers, OIA shall exercise its reasonable judgment in addressing such matter until OIA can obtain Client's direction regarding such matter.
- Annual Management. As soon as reasonably practical following execution of this Agreement, and at least forty-five (45) days prior to the commencement of each fiscal year thereafter (which fiscal year shall begin October 1 unless otherwise directed by Client), OIA shall submit for Client's approval a management plan and operating budget for the Center by June 30, for the then upcoming fiscal year (each such budget being referred to herein as an "Operating Plan and Budget"). Client shall have the right to approve, modify or reject each proposed Operating Plan and Budget or amendment thereto proposed by OIA. Each Operating Plan and Budget and proposed amendment thereto proposed by OIA shall be prepared in reasonable detail and shall include a schedule of projected revenues, a schedule of operating expenses, a schedule of expected repairs and maintenance expenses, a schedule of proposed capital items, if any, to be acquired by Client, a proposed marketing plan for the period, and other matters identified by Client for inclusion in the Operating Plan and Budget or amendment thereto. Notwithstanding any other provision of this Agreement, OIA is authorized to make expenditures in accordance with each Operating Plan and Budget approved by Client, subject to Client's overall right to direct OIA's management of the Center. Any decision which may result in an unbudgeted capital expenditure of more than \$25,000 shall require the prior written

approval of Client. Client may amend the Operating Plan and Budget from time to time upon reasonable notice to OIA. If the applicable Operating Plan and Budget is not approved, OIA shall follow the Operating Plan and Budget from the preceding three months until the applicable Operating Plan and Budget is approved.

- Requirements for Operating Plans and Budgets. Each Operating Plan and Budget and each proposed amendment thereto presented by OIA shall, in sufficient detail, describe (a) the charges to be assessed by Client for all imaging procedures, excluding the professional component of billed services; (b) Client's personnel procedures and policies, including those relating to employment, discharge, supervision, management, compensation levels, job descriptions, and compliance with applicable legal requirements; (c) Client's administrative procedures, including procedures for billing and collection of accounts receivable, payment of accounts payable and indebtedness, accounting methods to be employed by the Centers, patient registration procedures and reimbursement procedures with respect to Medicaid, Medicare, Blue Cross, and other federal health care programs and third party payors and programs in which the Centers participate; and (d) and other matters identified by Client for inclusion in the Operating Plan and Budget or amendment thereto. The Operating Plan and Budget's contents and any amendments thereto are within the discretion of Client, and OIA will not implement any Operating Plan and Budget without Client's prior written approval. OIA shall make no material changes to any Operating Plan and Budget without the prior approval of Client. Upon Client's approval of an Operating Plan and Budget, OIA shall operate the Centers in accordance with such Operating Plan and Budget, subject to any modifications by Client.
- 2.5. No Guarantee by OIA Regarding Operating Plans and Budgets. OIA makes no guarantee, warranty or representation in connection with any Operating Plan and Budget, or schedule thereto other than: (i) each Operating Plan and Budget presented by OIA, and each proposed modification to any Operating Plan and Budget presented by OIA will represent OIA's best estimate of Center revenue, expense, income, cash flow and each other matter which Client directs OIA to address in such Operating Plan and Budget or proposed modification; (ii) OIA will use best efforts to manage the Center such that its financial performance is consistent with the then-current Operating Plan and Budget; and (iii) that the Operating Plan has been prepared to conform with all applicable standards of care, laws, rules, regulations, and regulatory advisory opinions.

2.6. Personnel.

2.6.1. Administrator: OIA shall provide an "Administrator" for the Centers (or each Center as the case may be) who shall work on a full-time basis in Memphis, Tennessee or such other location where the applicable Center is located. The Administrator will be an employee or leased employee of OIA, and will not be an employee of the Client. Any person proposed by OIA to serve as the Administrator shall be subject to Client's prior approval, which may be withheld within Client's sole discretion. The Administrator, acting in accordance with the then-current Operating Plan and Budget, shall be directly responsible for the day-to-day operations of the Centers, subject to Client's overall direction. OIA shall supervise, manage and direct the Administrator to assure compliance with the then-current Operating Plan and Budget. OIA shall be responsible for paying (or arranging for the Administrator's employer to pay) the Administrator's salary and benefits, all withholding in accordance with applicable legal

requirements, and all required employer contributions. The expense of the administrator shall be reimbursed as provided in Section 4.1.2. In the event that Client becomes dissatisfied with the performance of the Administrator, Client shall provide OIA with written notice setting forth with specificity the alleged deficiency in the Administrator's performance. If OIA fails to cure such deficiency within sixty (60) days from the date of receipt of such notice, OIA shall, unless otherwise requested by Client, remove the Administrator from the Center within ten (10) business days thereafter. If the Administrator leaves or is removed from the Center for any reason, OIA shall use its best efforts to provide a replacement Administrator for Client's approval as soon as possible.

- 2.6.2. Other Center Personnel: OIA shall be responsible for supervising the hiring and performance of all non-physician personnel necessary to provide the requisite administrative and clinical services for the Center. All Center personnel will work on site at the applicable Center, unless otherwise approved in advance in writing by Client. All such personnel shall be employees of an affiliate of OIA or a related employee leasing company. OIA or its affiliates shall provide administrative and payroll services for the Center personnel leased from such company. OIA shall be responsible for overseeing that all such personnel are fully qualified to perform the services for which they are engaged to perform for the Center. Other than the Administrator, for whose employment expenses Manager is to be reimbursed as provided in Section 4.1.3, Manager shall not be liable or responsible to the persons employed at the Center for their wages, fringe benefits or other forms of compensation. Client shall be solely responsible for the payment of all such compensation, including fringe benefits, payable with respect to such employees. Client shall also be responsible for the employer's contribution of FICA, unemployment compensation and other employment taxes, worker's compensation, group life and accident and health insurance premiums and other similar benefits which may be payable by Client with respect to such employees.
- 2.7. Operating Supplies. OIA shall arrange for the purchase of all necessary medical and administrative supplies and materials in the name of and for the account of Client, all subject to the then-current Operating Budget and Client's direction.
- 2.8. <u>Maintenance and Repairs</u>. OIA shall arrange for all purchase or lease arrangements, maintenance contracts, repairs, renovations and replacements to or for Center equipment and furnishings, subject to Client's prior approval. Any capital expenditures amounts not provided for in the then-current Operating Plan and Budget in excess of \$25,000 shall be undertaken only with the prior written approval of Client.
- 2.9. <u>Licenses and Permits</u>. OIA shall be responsible for notifying Client regarding all licenses, permits, provider numbers and regulatory approvals necessary to operate the Center, and timely preparing for Client's prior approval and submitting on Client's behalf (following execution by Client) all applications and documentation necessary for Client to obtain and maintain such licenses, permits, provider numbers and regulatory approvals.
- 2.10. <u>Bank Account</u>. OIA shall arrange for all payments from third party payors for any services provided by Client to be deposited by the applicable payor directly into an account in Client's name at a bank or other financial institution selected by Client. OIA shall take all steps necessary to establish such account, to notify all applicable payors concerning such account

and to take all steps necessary to provide for payor deposits directly into such account. OIA also shall arrange for all patient payments and any other payments for any services provided by Client to be deposited directly into such account. OIA will have no ownership rights in the bank account or funds in such account, and will have no right to negotiate or assert ownership rights in or to checks made payable to Client or any amount paid or payable for services furnished by Client. Client will be responsible for all bank fees associated with such bank account. OIA shall have authority to write checks on such Client account for items identified in the then-current Operating Budget or otherwise approved in advance by Client in writing. Disbursements for capital items over \$25,000 that are not provided for in the then-current Operating Budget must be approved by Client in writing. There shall be no commingling of OIA's funds with Client's funds.

- 2.11. <u>Disbursements</u>. OIA shall disburse and pay on behalf of Client, in such amounts and at such times as the same are required in connection with the operation of the Centers, the items set forth below in accordance with the then-current Operating Plan and Budget, and Client's directions. In making such disbursements, OIA shall at all times exercise the same care that an ordinarily prudent businessperson with experience in health care management would exercise with regard to the funds of the Client.
- 2.11.1. <u>Taxes</u>: All taxes, assessments, and impositions of every kind imposed by any governmental authority having jurisdiction, unless the payment thereof is contested by Client;
- 2.11.2. <u>Center Operating Costs</u>: All costs and expenses of operating the Centers, including without limitation:
 - 2.11.2.1. <u>Equipment Lease Costs</u>: Equipment lease and debt service obligations;
 - 2.11.2.2. Rent: Facility rent;
 - 2.11.2.3. <u>Loan Payments</u>: Principal and interest payments on approved loans;
 - 2.11.2.4. Operating Supplies: The cost of all operating supplies necessary for the operation of the Centers;
 - 2.11.2.5. <u>Equipment Maintenance</u>: Center equipment maintenance and service contracts;
 - 2.11.2.6. <u>Advertising/Promotion Costs</u>: The cost of advertising and promotion of the Centers;
 - 2.11.2.7. <u>Insurance Premiums</u>: Premiums for insurance maintained with respect to the Centers;
 - 2.11.2.8. <u>Utilities</u>: The cost of utilities, services and concessions at the Centers;

- 2.11.2.9. <u>License/Permit Fees</u>: Application fees and any other expenses associated with obtaining or maintaining numbers or regulatory approvals required in connection with the Centers;
- 2.11.2.10. Management and Billing Fees: Those undisputed and properly documented amounts due to OIA as out-of-pocket expense reimbursements and the Management Fee as set forth in Section 4 hereto, and undisputed and properly documented amounts due to any OIA affiliate performing billing and collection services for Client; OIA agrees not to make any such payment if Client notifies OIA that such amount is in dispute; provided that in such case Client shall turn over to a mutually approved escrow agent the amount in dispute, which shall be held in escrow until resolution of the dispute;
- 2.11.2.11. <u>Personnel Expenses</u>: Reimbursement for salaries, fringe benefits, HR/recruitment fees, withholding costs, and expenses of the Administrator and other personnel employed by Client working on-site for the Centers pursuant to this Agreement, if any;
- 2.11.2.12. <u>Printing Costs</u>: Budgeted third party printing costs for materials prepared for the Centers;
- 2.11.2.13. <u>Membership Fees</u>: The fees and expenses of Client's membership in any professional or trade associations; and
- 2.11.2.14. Other Expenses: All other expenditures which have been provided for in the then-current Operating Budget, or which have been approved by Client in writing.

Notwithstanding any other provisions of this Agreement, OIA may not disburse any amount to any affiliate of OIA other than as permitted by the Client's Operating Agreement or this Agreement, or approved in advance in writing by Client.

- 2.12. <u>Insurance</u>. OIA shall obtain and maintain during the term of this Agreement, at Client's expense, appropriate insurance coverage for the Centers in accordance with the description of insurance coverage set forth on <u>Exhibit 3.11</u>, provided that if such insurance coverage cannot be obtained at a reasonable expense, OIA and Client shall determine such other coverages as may be reasonably obtained, and shall modify <u>Exhibit 3.11</u> accordingly. All such polices, except workers compensation insurance policies, shall, at OIA's sole expense, be written or amended to include OIA, its agents, servant, employees, officers, and directors as additional name insureds.
- 2.13. Accounting. OIA shall perform or shall arrange for an outside accounting firm approved by Client to provide all accounting functions necessary in the operation of the Centers, including management of accounts payable, payroll and preparation of income and cash flow statements and balance sheets. OIA shall supervise the performance of such outside accounting services. An outside accounting firm shall be engaged, at Clients expense, to prepare Client's tax returns. The expense of an independent auditor to conduct an annual audit shall be Client's obligation if Client elects to have such an audit performed.

- 2.14. <u>Financial Reports.</u> OIA shall deliver or cause to be delivered to Client financial statements as follows:
- 2.14.1. Monthly Report: On or before the thirtieth (30th) day of each month, a statement showing the results of operations of the Centers for the preceding month and year-to-date:
- 2.14.2. <u>Year-End Statements</u>: Within ninety (90) days after the end of each fiscal year of the Centers, an unaudited balance sheet and related statements of profit and loss; and
- 2.14.3. Other Reports: Such other monthly, quarterly and annual reports as Client reasonably requests from time to time.
- 2.15. Agency. In the performance of its duties pursuant to this Agreement, OIA shall act solely as the agent and at the direction of Client. Except as otherwise expressly stated in this Agreement, OIA shall not be responsible for any debts or liabilities of Client to third parties. Likewise, Client shall not be liable for any debts or liabilities of OIA, except as expressly stated herein. Nothing contained in this Agreement shall be construed to create a joint venture or partnership between Client and OIA.
- 2.16. Quality Control. OIA shall develop, recommend and assist Client in the evaluation, implementation and supervision of all quality control aspects of the Centers and their operations, at Client's direction, designed to bring about a high standard of health care in accordance with Client's policies and resources available to the Centers.
- 2.17. Medical and Professional Matters OIA shall have no responsibility hereunder for the practice of medicine by any physician providing services for the Centers, or the delivery of health care services as appropriately directed by any such physician; provided that nothing in this Section modifies or supersedes any of OIA's obligations under this Agreement (particularly the obligations to comply with all applicable legal requirements and Client's directions and policies). Notwithstanding the foregoing, to the extent credentialing, peer review and quality assurance activities are performed in or for the Centers, OIA shall oversee those processes and be responsible therefore.

2.18. Negotiation of Agreements.

- 2.18.1. Physician Interpretation Agreement: OIA shall negotiate, consistent with Client's directives and subject to Client's final approval and execution, the agreement (and any amendments thereto) with physicians or physician groups selected by the Client, for the provision of all professional supervision and professional interpretation services required by the Center in exchange for a fair market value fee and according to commercially reasonable terms and conditions.
- 2.18.2. <u>Payor Agreements</u>: OIA shall assist Client in identifying payors and in negotiating, consistent with Client's directives and subject to Client's final approval and execution, each agreement (and any amendments thereto) with each payor identified by Client.

- 2.19. <u>Coding, Billing and Collection Services</u>. OIA is responsible for performing, or arranging for a third party to perform, all coding, billing and collection services in connection with, and based on documentation provided by, Client regarding services provided by Client, as more fully set forth on <u>Exhibit 3.18</u> attached hereto.
- 2.20. <u>Compliance Program</u>. OIA shall prepare a compliance program for Client designed to promote compliance with all applicable legal requirements concerning the delivery of the health care services offered by Client. The program shall comply with any guidance provided by the Department of Health and Human Service Office of Inspector General and with the requirements of the Federal Sentencing Guidelines to qualify as an "effective" compliance program. Following Client's approval of the compliance program, OIA will be responsible for implementing and monitoring the compliance program.
- 2.21. <u>Insurance</u>. OIA must maintain during the term of this Agreement the following insurance coverage: management liability (errors and omissions), \$1 million per incident/\$3 million aggregate; general liability, \$2 million per incident/\$3 million aggregate; umbrella coverage, \$3 million. OIA shall provide Client with evidence of such insurance coverage upon execution of this Agreement and annually thereafter (or at such other times as Client requests). OIA will ensure that the Administrator and any leased employees are covered by workers compensation insurance at the statutory limits.

2.22. Health Law Compliance.

- 2.22.1. No Violations: OIA hereby represents to Client that as of the date hereof, (i) neither OIA nor any of its employees who provide services hereunder or at the Center has been convicted of a criminal offense related to health care or is excluded from participating in any federal or state procurement or health care program, and (ii) there is no pending investigation or proceeding which may result in any such conviction or exclusion with respect to any such person or entity. OIA agrees that this shall be an ongoing representation and that it will immediately notify Client of changes in such representation that would render it untrue.
- 2.22.2. <u>Background Checks</u>: Prior to engaging or providing any person to provide services hereunder or at the Center, OIA will (at its own expense as to OIA employees, and at Client's expense as to persons to be employed at the Center) perform or arrange for a background check, in accordance with all applicable local, state and federal requirements, on such person to confirm that such person is qualified to perform the duties of his or her position, and to confirm that the person has never been convicted of a criminal offense related to health care or excluded from participating in any federal or state procurement or health care program.
- 2.23. Operational Documents, Policies and Procedures. OIA shall develop, recommend, implement, and monitor such other operating documents or requirements, including policies and procedures as may be necessary and prudent in the operation of the Center. Such documents may include, without limitation, policies and procedures related to risk management, record retention, and patient chart maintenance.
- 2.24. Ownership of Operating Documents of Center. All development and operating documents, including all policies and procedures, developed and/or implemented by OIA for the

Center and Client are the property of Client. Such documents shall remain the property of Client notwithstanding any termination of the Agreement.

3. COMPENSATION FOR DEVELOPMENT, MANAGEMENT AND BILLING SERVICES

- 3.1. Reimbursement for Out-of-Pocket Expenses. The actual salary, bonus (if any), benefits and withholding costs paid by OIA, or OIA's actual employee leasing cost paid by OIA to a third party unrelated to OIA or any of its affiliates, whichever is applicable, for the Administrator, and any other OIA personnel, if any, who perform services full-time at the Centers in accordance with the terms of this Agreement will be reimbursed by Client on the same business day that such expenses are paid by OIA. With respect to other expenses incurred by OIA, within thirty (30) days of incurring such and such not being disputed by Client, OIA shall receive reimbursement for all direct out-of-pocket expenses reasonably incurred by OIA to provide the development, management, billing and marketing services for the Center in accordance with this Agreement and (i) reasonably consistent with the corresponding line items provided for in the then-current Operating Plan and Budget or (ii) approved in writing by Client, provided said out-of-pocket expenses are incurred by OIA in a manner consistent with Exhibit 4.1.
- 3.2. Compensation for Management and Billing Services. For all management services and billing services rendered by OIA pursuant to this Agreement, OIA shall receive a monthly development, management and billing services fee (the "Management Fee") in an amount equal to ten percent (10.0%) of Net Collected Revenues. For the purposes of this Agreement the term "Net Collected Revenues" means for any calendar month or portion thereof that this Agreement is in effect: (i) the gross collections for services provided by Client which are deposited into the Client account referred to in Section 3.9, above, during the calendar month or portion of such calendar month that this Agreement was in effect; minus (ii) the amount of any refunds, recoupments or similar payments paid, credited or reserved by Client with respect to a patient or third party payor during such calendar month (for example due to an overpayment by a patient or payor). The Management Fee for each calendar month or portion thereof that this Agreement is in effect shall be paid to OIA within five (5) business days after the end of each calendar month.

4. OBLIGATIONS OF CLIENT

- 4.1. Reasonable Institutional Support. Client and its owners agree to provide such assistance to OIA as may be reasonably necessary to allow OIA to fulfill its obligations under this Agreement, including responding in a timely manner to requests for information and direction from Client.
- 4.2. Covenant Not to Hire Administrator. Client shall not hire or otherwise engage the Administrator during the term of this Agreement or for two (2) years after termination of this Agreement unless otherwise agreed to by OIA.

5. CONFIDENTIALITY

5.1. Confidentiality.

- 5.1.1. OIA Confidential Information: The term "OIA Confidential Information" shall mean confidential OIA information which OIA designates in writing to Client as being OIA Confidential Information at the time of OIA's disclosure of such information to Client. Notwithstanding the foregoing, the term "OIA Confidential Information" does not include any information in the public domain, now or in the future, other than information in the public domain solely due to public disclosure by Client without authorization pursuant to this Agreement or other authorization by OIA. Client recognizes and acknowledges that Client's public dissemination, release or use of any OIA Confidential Information other than pursuant to this Agreement could be injurious to the business and operations of OIA. Therefore Client explicitly agrees to maintain the confidentiality of the OIA Confidential Information. Client also agrees not to use, appropriate or disseminate any OIA Confidential Information for its own benefit or the benefit of others, except as permitted under this Agreement. OIA hereby authorizes Client to use any OIA Confidential Information in connection with the operation of the Center, and authorizes Client to disclose any OIA Confidential Information as required by applicable law or as Client reasonably deems necessary to respond to any request or order by a court or regulatory entity. OIA acknowledges that Client is not responsible for any disclosure of OIA Confidential Information by: (i) the Administrator and any personnel provided or engaged by OIA to work at the Centers (the Administrator and such personnel are referred to as the "Center Personnel"); or (ii) any other personnel not employed by Client.
- Client Confidential Information: OIA acknowledges that all documents. materials and information concerning the development or operation of the Center, including policies and procedures developed by OIA for Client but not including any OIA Confidential Information, constitute Client's confidential information (the "Client Confidential Information"). Notwithstanding the foregoing, the term "Client Confidential Information" does not include any information in the public domain, now or in the future, other than information in the public domain solely due to disclosure by OIA or any Center Personnel without authorization pursuant to this Agreement or other authorization by Client. OIA recognizes and acknowledges that OIA's or any Center Personnel's public dissemination, release or use of any Client Confidential Information other than pursuant to this Agreement could be injurious to the business and operations of Client. Therefore OIA explicitly agrees to maintain, and arrange for all the Center Personnel to maintain, the confidentiality of the Client Confidential Information. OIA also agrees not to use, appropriate or disseminate any Client Confidential Information for its own benefit or the benefit of others, except as permitted under this Agreement. OIA will arrange for each person provided by it pursuant to this Agreement to execute a confidentiality agreement binding such person to confidentiality restrictions in such form and in such manner as may be required by Client. Client hereby authorizes OIA and the Center Personnel to use any Client Confidential Information in connection with the operation of the Center, and authorizes OIA and the Center Personnel to disclose any Client Confidential Information as required by applicable law or as OIA reasonably deems necessary to respond to any request or order by a court or regulatory entity.
- 5.1.3. <u>Injunctive Relief</u>: The parties acknowledge that the obligations contained in this Section 6 are an essential element of this Agreement, without which this Agreement would not exist, and that any breach of this Section 6 may cause irreparable harm to the non-breaching party. For those reasons the parties agree that any breach of this Section 6

will entitle the non-breaching party to seek injunctive relief, along with any other remedies available to such non-breaching party at law or in equity.

5.1.4. <u>Survival of Obligations</u>: The obligations in this Section 6 will survive termination or expiration of this Agreement for any reason, including expiration.

6. **DEFAULT; REMEDIES**

- 6.1. <u>Default by Client</u>. It shall constitute an event of default under this Agreement (an "Event of Default") by Client if Client:
- 6.1.1. <u>Unpaid Management Fee or Failure to Reimburse Expenses</u>: Fails to authorize or permit payment of any undisputed Management Fee or expense incurred by OIA for which Client is required to reimburse OIA hereunder within ten (10) business days following the date such payment is due pursuant to Section 4.1 or 4.2; or
- 6.1.2. <u>Breach</u>: Fails to perform any other material obligation under this Agreement, unless such failure to perform is due to any act or omission by OIA.
- 6.2. Client's Right to Cure; OIA's Remedies. With respect to an Event of Default under Section 7.1.2, Client shall have sixty (60) days from the receipt of written notice of an Event of Default from OIA to remedy such Event of Default. Such notice shall state with particularity the Event of Default, and the action(s) required by Client to cure such Event of Default. If Client fails to cure such Event of Default by the close of such sixty (60) day period, OIA may terminate this Agreement on notice to Client and exercise any remedies available to OIA at law or in equity. Further, any amounts due and owing to OIA by Client pursuant to this Agreement shall bear interest at the lesser of ten percent (10%) or the highest rate of interest permitted by law.
- 6.3. <u>Default by OIA</u>. It shall constitute an Event of Default by OIA under this Agreement if:
- 6.3.1. <u>Fraud</u>: OIA or the Administrator commits fraud, misappropriation, embezzlement, or the like, of Client's assets or property ("Monetary Fraud");
- 6.3.2. <u>Gross Negligence</u>: OIA or the Administrator commits or engages in gross negligence, willful misconduct or any intentional breach of its fiduciary duty to Client; or
- 6.3.3. <u>Breach</u>: OIA or the Administrator fails to perform any other material obligation under this Agreement, unless such failure to perform is due to any act or omission by Client, provided, however, that any such Monetary Fraud, negligence or breach by the Administrator or any third party engaged by OIA shall not constitute an Event of Default if OIA, upon discovery of such action, immediately and permanently terminates such Administrator or third party's work at the Centers and, in an event of Monetary Fraud, immediately makes restitution to Client to compensate for all Client loss caused and all Client costs (including, without limitation, reasonable attorney fees and costs) attributable to such action.

- 6.4. OIA's Right to Cure; Client's Remedies. In the event Client determines that an Event of Default has occurred, Client shall provide OIA written notice of the event or events constituting default, and shall specify with reasonable particularity such actions as would be required to remedy such default. OIA shall then have thirty (30) days from the receipt of written notice of an Event of Default from Client to remedy such Event of Default. If OIA fails to cure such Event of Default by the close of such thirty (30) day period, Client may terminate this Agreement on notice to OIA and exercise any remedies available to Client at law or in equity.
- 6.5. <u>Limitation of Liability</u>. In the event of error or omission in the performance of the services rendered by OIA hereunder due solely to the actions or failure to act of OIA, OIA will re-perform the services at no additional cost to Client. Client acknowledges that OIA shall be responsible for the accuracy of the codes, fees, and all other data provided to OIA for use in the provision of OIA's services. Notwithstanding the foregoing, it is expressly understood and agreed that (1) OIA shall have no liability for the (a) inability of third parties or systems beyond the control of OIA to accurately process data, or (b) transmission to OIA of inaccurate, incomplete or duplicate data; (2) OIA's liability cap for any negligent or intentional acts not involving compliance, billing and other similar functions shall be equal to the amount of liability coverage required in the Section of this Agreement entitled "Insurance"; and (3) for any negligent or intentional acts involving compliance, billing and other similar functions, there shall be no cap on OIA's liability. Neither party shall in any event be liable to the other for any indirect, special, or consequential losses or damages suffered by such party or any third party.

6.6. Other Termination Rights.

- 6.6.1. <u>Bankruptcy</u>: Either party may terminate this Agreement upon written notice to the other party if the other party applies for or consents to the appointment of a receiver, trustee or liquidator or all or a substantial portion of its assets, files a voluntary petition in bankruptcy or is the subject of an involuntary bankruptcy filing, makes a general assignment for the benefit of creditors, or files a petition or an answer seeking reorganization or arrangement with creditors or to take advantage of any insolvency law, or if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating the other party bankrupt or insolvent or approving a petition seeking reorganization of such other party or appointing a receiver, trustee or liquidator for such other party of all or a substantial portion of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of sixty (60) consecutive days.
- 6.6.2. <u>Dissolution/Liquidation/Sale/Merger</u>: This Agreement will automatically terminate upon: (i) dissolution or liquidation of Client for any reason; (ii) sale of substantially all of Client's assets; or (iii) consummation of a merger transaction in which Client is not the surviving entity.
- 6.6.3. <u>Violation of Health Care Law</u>: Notwithstanding any other provision of this Agreement, either party may terminate this Agreement immediately on notice to the other party if the other party or any of its employees that provides services hereunder or at the Center is (i) arrested or indicted for or convicted of violating any law or regulation concerning the provision of health care services, or (ii) proposed for exclusion or excluded from participating in any federal or state procurement or health care program.

- Change in Law: Either party may provide written notice to the other party if counsel for such party reasonably determines that continuation of this Agreement may subject such party to sanctions under applicable legal requirements or may jeopardize such party's participation in or material payments under Medicare, Medicaid, any successor to either such program, or any other governmental payor arrangement or may subject the party to sanctions or penalties under the Federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b), the Federal Physician Self-Referral (Stark) Law (42 U.S.C. § 1395nn), the Federal Civil Monetary Penalties Law (42 § 1320a-7a) or any similar state health regulatory compliance law. The parties agree to use reasonable best efforts and negotiate in good faith following such notice to determine whether they can reach mutual agreement concerning how to modify this Agreement to comply with applicable legal requirements. To the maximum extent possible, any such amendment shall preserve the underlying economic and financial arrangement between the parties. In the event the parties are unable to reach agreement as to the terms of the amendment within sixty (60) days following the date of written notice, then either party may terminate this Agreement. No party shall assert illegality as a defense to enforcement of this Agreement or any provision hereof
- 6.7. <u>Effect of Termination</u>. Termination of this Agreement for any reason will not relieve either party of any obligation which arose under this Agreement prior to such termination, or any obligation expressly stated herein as surviving termination of this Agreement.
- 6.8. <u>Termination Procedures for Billing and Collection Services</u>. In the event of termination of this Agreement for any reason, Client shall choose one of the following two (2) options as a means of transferring its accounts receivable from OIA to another provider of coding, billing and collection services. Client shall notify OIA in writing as to which option it has chosen:
- (a) Upon the effective date of termination, OIA shall cease to enter new patient and charge data into its computer system on behalf of Client, but will (a) continue to perform the coding, billing and collection services hereunder for a period of ninety (90) days after termination with respect to all of Client's accounts receivable relating to Client's charges for clinical procedures rendered prior to the termination date, and Client shall continue to pay OIA for such services in accordance with Section 4 during such ninety (90) day period, (b) thereafter discontinue processing Client's existing accounts receivable, (c) deliver to Client, after full payment of all fees owed, a final list of accounts receivable, (d) provide transitional services as mutually agreed, and (e) have no further obligations to Client thereafter with respect to the provision of services in this Agreement; or
- (b) On or before the effective date of termination, Client shall pay OIA the "Services Rendered Fee" as defined below. Upon payment of the Services Rendered Fee, OIA shall (a) be immediately relieved of the obligation to provide any further services on behalf of Client with respect to the provision of services set forth in this Agreement, (b) deliver to Client, after full payment of all fees owed, a final list of accounts receivable, (c) provide transitional services as mutually agreed, and (d) have no further obligations to Client with respect to the provision of services set forth in this Agreement. Client may negotiate with OIA for additional transitional services to be provided by OIA to Client after the date of termination at Client's additional expense. The parties understand and acknowledge that the Services Rendered Fee is

in addition to any other legal or equitable remedy OIA may have against Client, if any, and in no way is intended to limit the rights and remedies OIA may have against Client arising out of any breach of this Agreement. The "Services Rendered Fee" shall be equal to the percentage set forth in Section 4.2 for determining the monthly Management Fee, multiplied by the aggregate outstanding accounts receivable incurred in the past 180 days (not including accounts receivable held with or transferred to early-out agencies, collection agencies or any other third party billing/collection organization) as of the effective date of termination, multiplied by the historical gross collection percentage (gross collections divided by gross charges) for the six (6) months immediately preceding the effective date of termination and meet industry standards of being commercially reasonable

7. TERM OF THE AGREEMENT

7.1. Term. The initial term of this Agreement is five (5) years. This Agreement shall be automatically renewed for additional successive five (5) year terms unless Client provides written notice to OIA of Client's intent not to renew this Agreement. Such notice shall be provided at least one hundred eighty (180) calendar days prior to the expiration of the initial five (5)) year term of this Agreement or any succeeding five (5) year term.

7.2. Payment of Fees; Delivery of Property.

- 7.2.1. Payment of Fees: Subject to Section 7.8, upon the termination of this Agreement for any reason, all undisputed amounts due OIA hereunder as of the date of termination (minus any undisputed amounts owed by OIA to Client) shall be paid to OIA by Client within ninety (90) calendar days after the date of termination.
- 7.2.2. <u>Delivery of Property</u>: Upon termination of this Agreement for any reason, each party hereto shall promptly deliver to the other party all of the other party's property in such party's possession. Each party shall cooperate with the other party to effect the termination and transition to another management company if one is appointed. Upon termination, OIA shall deliver to Client all funds, without any set offs, hold backs, or deductions, controlled by or in the possession of OIA as agent for Client.

8. MISCELLANEOUS

- 8.1. <u>Indemnification</u>. Except as otherwise provided herein, each party shall indemnify the other party, and hold it harmless from any and all liability, including reasonable attorney's fees and costs, caused by or resulting from the act or omission of the indemnifying party, that party's officer, director, agent, employee, leased employee, or any Center Personnel employed or otherwise engaged by such party to provide services in conjunction with the Centers.
- 8.2. <u>Disclaimer of Employment of Medical Employees</u>. No person employed by Client as a physician shall be or be deemed to be an employee of OIA, and OIA shall have no liability for payment of any wages, payroll taxes and other expenses of employment for any person employed by Client, except that OIA shall have the obligation to exercise reasonable care in the management of the Centers and to apply available Client funds to the payment of such wages, benefits, and payroll taxes in accordance with this Agreement.

8.3. <u>Non-Assumption of Liabilities</u>. OIA shall not, solely by virtue of entering into and performing this Agreement, become liable for any of the existing or future obligations, liabilities or debts of Client. Client shall not, solely by virtue of entering into and performing this Agreement, become liable for any of the existing or future obligations, liabilities or debts of OIA.

8.4. Access to, Maintenance and Confidentiality of Records.

- 8.4.1. Access to Records; Confidentiality: OIA shall, during the term hereof be given complete access to the Centers' records, offices and facilities as necessary for OIA to carry out its obligations hereunder, subject to all applicable legal requirements and Client's policies concerning the confidentiality of patient information and medical records. OIA shall maintain the confidentiality of all files and records, including patient records, of Client, disclosing the same only as required by law, or in accordance with Client's policies in circumstances when disclosure is permitted by law.
- 8.4.2. Records to be Maintained: Client will maintain all records related to the Center for at least: (i) the maximum applicable statute of limitations period; (ii) the period of time as is otherwise required by state or federal law with respect to the retention of medical records; (iii) six (6) years after the last date of services rendered; and (iv) five (5) years from termination of this Agreement. If records are under review or audit by any third party payor or governmental agency, Client shall maintain such records until the review or audit is complete. Said records shall be made available and furnished immediately upon request for fiscal audit, medical audit, medical review, utilization review, and other periodic monitoring upon request of authorized representative of authorized federal or state personnel.
- 8.5. <u>HIPAA Compliance</u>. The parties acknowledge that the relationship between them will involve the transmission and sharing of information that is or may become subject to the provisions of HIPAA. Accordingly, the parties adopt and incorporate by reference herein the provisions of the "Business Associate Addendum" attached hereto as Exhibit 9.5.
- 8.6. Assignment; Permitted Assignment. Neither party may assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other party, and any attempt to assign or otherwise transfer any rights or obligations hereunder in violation of this Section is void; provided, however, that OIA may assign this Agreement to an entity that purchases all or substantially all of the assets of OIA. Further, to the extent that an OIA-affiliated entity is no longer an owner of Client, OIA may elect to assign this Agreement to a third party with the prior written consent of Client, which consent shall not be unreasonably withheld. If Client does not consent to such assignment, OIA may terminate this Agreement upon sixty (60) days prior written notice to Client.
- 8.7. <u>Rights Cumulative</u>; <u>No Waiver</u>. No right or remedy herein conferred upon or reserved to either of the parties hereto is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of an Event of Default hereunder. Every right and remedy given by this Agreement to the parties hereto may be

exercised from time to time and as often as may be deemed expedient by the parties, as the case may be.

- 8.8. <u>Headings</u>. The section and paragraph captions and headings contained in this Agreement are included for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- 8.9. <u>Counterparts</u>. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original document and all of which, taken together, shall be deemed to constitute but a single original document.
- 8.10. Notices. All notices, offers, requests, demands, and other communications pursuant to this Agreement shall be given in writing by personal delivery, by prepaid first class registered or certified mail properly addressed with appropriate postage paid thereon, or by nationally recognized overnight express courier service for next business day delivery. Any such notice, offers, requests, demand, or other communications shall be deemed to be duly given and received on the date of delivery or the next business day following sender's delivery to a nationally recognized overnight express courier service, or five (5) business days following the mailing of notice by registered or certified mail. Notices shall be sent to the parties at the following addresses or at such other address as any party may have furnished to the other in writing in accordance herewith, except that notices of change of address shall only be effective upon receipt.

Address for Notices:	Address for Notices:
Outpatient Imaging Affiliates, LLC Attn: Chief Executive Officer 840 Crescent Centre Drive, Suite 200 Franklin, TN 37067	

- 8.11. Entire Agreement. This Agreement, including the exhibits attached hereto, contains the entire understanding of the parties with respect to its subject matter. This Agreement merges and supersedes all prior agreements and understandings between the parties, written or oral, with respect to its subject matter, and there are no restrictions, agreements, promises, warranties, covenants or undertakings between the parties with respect to the subject matter hereof other than those expressly set forth herein.
- 8.12. Severability. In the event that any provision of this Agreement, or the application thereof to any person or circumstance is held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, or the application of the invalid, illegal or unenforceable provision to any other person or circumstance, and this Agreement shall then be construed as if such invalid, illegal or unenforceable provision had not been contained in this Agreement, but only to the extent of such invalidity, illegality or unenforceability.
- 8.13. <u>Amendment</u>. This Agreement may be amended by mutual written consent of duly authorized representatives of the parties.

- 8.14. Force Majeure. Neither party shall be liable for any failure or delay in performing its obligations under this Agreement due in whole or in material part to any cause beyond its reasonable control, including but not limited to fire, accident, labor dispute or unrest, flood, riot, war, rebellion, insurrection, sabotage, terrorism, transportation delays, shortage of raw materials, energy or machinery, acts of God or of the civil or military authorities of a state or nation, or the inability, due to the aforementioned causes, to obtain necessary labor or facilities.
- 8.15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to the State's cases and statutes concerning conflict of laws. Exclusive venue for any legal proceeding in respect of or arising out of this Agreement shall lie in any court of competent jurisdiction sitting in Memphis, Tennessee.
- 8.16. Arbitration. In the event the parties to this Agreement disagree on the interpretation, construction, performance or enforcement of this Agreement ("Dispute"), the parties hereby agree, to the extent permitted by law, to resolve the Dispute by binding arbitration in accordance with the following procedures. First, any party with a Dispute may demand in writing that the Dispute be submitted to arbitration. A period of twenty (20) business days shall pass from the date of the demand during which the parties shall exercise good faith to reach a common understanding and resolution of the Dispute. In the event that the parties shall not be able to resolve the Dispute within the twenty (20) business day period, the Dispute shall be referred to binding arbitration in Memphis, Tennessee before a single arbitrator agreeable to both parties under the then-existing rules of the American Arbitration Association. Judgment on the arbitration award may be entered in any court of competent jurisdiction. The prevailing party shall have the costs of the arbitrator and its reasonable attorney's fees paid by the losing party. In the event that the arbitrator determines that neither party has substantially prevailed in its claim, each party shall share the costs of the arbitrator equally and shall pay their own attorney's fees.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives as of the day and year first above written.

OUTPATIENT IMAGING AFFILIATES, LLC

WEST TENNESSEE IMAGING, LLC

Title: Cannon Lin

Print Name: President

Title: Sinch

Print Name: Ful

EXHIBIT 3.11

INSURANCE COVERAGE

OIA shall obtain and maintain during the term of this Agreement, at Client's expense, appropriate insurance coverage for the Centers, including Property, General Liability and Professional Liability. Workers compensation insurance, in addition to the coverage provided by the Client's Professional Employment Organization, shall be obtained to cover any independent or subcontractors not covered by the PEO. D&O coverage will be applied for and purchased if available, and can be provided at a reasonable cost. In the event that any of the insurance coverage cannot be obtained at a reasonable expense, OIA and Client shall determine such other coverages as may be reasonably obtained, and shall modify this Exhibit 3.11 accordingly. All such policies, except workers compensation insurance policies shall be written or amended, at OIA's expense (if any), to include OIA, its agents, servants, employees, officers, and directors as additional insureds.

Coverage

Property

- All medical equipment, furniture & fixtures, IT & other equipment, building and tenant improvements

Includes Business income.

Liability

- Includes general and professional coverage of \$2.0 million per occurrence / \$3.0 million aggregate.

W/C

- Statute coverage

D&O

- Coverage of \$1.0 million per occurrence / \$1.0 million aggregate.

EXHIBIT 3.18

CODING, BILLING, COLLECTION AND RELATED SERVICES

OIA will commence coding, billing and collection services for Client as of the Effective Date, or with respect to additional Centers acquired or developed by the Company, upon commencement of operation of any such Center (the "Billing Start Date"). OIA, subject to Client's prior and ongoing approval, shall recommend, implement, and monitor such operating policies and procedures as may be necessary in relation to coding, billing, collections, and related services. The parties acknowledge that OIA must have access to the following information in order to perform coding, billing and collection services for Client. OIA, subject to Client's prior and ongoing approval, shall establish such policies and procedures for Client in order to obtain such information on a timely basis.

- (1) patient's demographic face sheet (including name, sex, date of birth, and status as single, married, or other);
- (2) responsible party's name, address, telephone number, employer;
- insured's name (if different from patient), sex, date of birth, address, relationship to patient, insured's employer (if group policy), insured's employer's address;
- (4) name of insurance company, address, policy certificate number, group policy number;
- (5) copy of radiology report;
- (6) copy of release of information and insurance assignment of benefits:
- (7) HMO/PPO authorization numbers approvals (if applicable) (referral hard copy, if applicable);
- (8) copy of amount paid at time of service receipt (if applicable);
- (9) date of service, chief complaint, medical history and exam, treatment, diagnosis, and physicians' notes;
- (10) name of performing physician;
- (11) name of referring physician; and
- a copy of the charge documents completed by Client for each patient for whom OIA is to provide coding, billing and collection services, which documents shall include CPT-4 codes and modifier(s) with appropriate ICD-9 codes assigned by Client.

Client shall also have the following responsibilities:

- (1) Work with OIA to establish electronic transmission of patients' demographic, financial and charge information;
- (2) Provide access to one or more members of Client's staff to respond in a timely manner to OIA's claim inquiries requesting additional required information or special handling authorization;
- (3) Notify OIA of patients who qualify for free or reduced charge services due to financial hardship;
- (4) Provide names and summary information (including copies of required documents) of new physicians for initiation of payor enrollment by OIA. Provide one or more members of the Client's staff to coordinate the timely return of

- completed and signed physician enrollment applications and electronic claim submission authorization forms for all physicians;
- (5) Send copies of workers' compensation notification of compensable injury forms
- (6) Provide OIA with Client's fee schedule for entry onto OIA's system prior to the start date of this Agreement. OIA will continue to update such fee schedule as such fee schedule may be revised by the mutual written agreement of the parties;
- (7) Transmit or cause to be transmitted to OIA only accurate external date/time data, in accordance with the requirements, procedures, data element standards, formats, codes, protocols and edits set forth by OIA;
- (8) Provide OIA with an electronic file, if available, of Client's referring physicians, including unique identifying codes (UPIN), and license numbers as of the effective date of this Agreement. Provide OIA with electronic updates, if available, to this file, containing similar required data, on a minimum monthly basis; and
- (9) Provide OIA with copies of contracted agreements with managed care plans, including the negotiated fee schedules.

OIA shall perform all coding, billing and collection services for Client, subject to Client's ongoing approval and direction. Such services will include, for example, the following:

- 1. Entry of Client's fee schedule onto OIA's billing system prior to the Billing Start Date. OIA will continue to update such fee schedule on OIA's billing system, as such fee schedule may be revised from time to time by Client.
- 2. Enter all necessary demographic information and coding information onto the OIA billing system.
- 3. Handle all accounts in accordance with standard accounting principles and all applicable laws.
- 4. Bill each payor account and patient covered by such payor in accordance with the terms of Client's agreement with such payor. For accounts for which Client does not have a payor agreement, OIA will bill in accordance with applicable legal requirements and Client's directives.
- 5. Receive copies of the patient charts, check for completeness, maintain a daily log of charts received.
- 6. Conduct electronic tape-to-tape transfer of demographic data from other providers, where available (may require physician involvement).
- 7. Code each patient chart, including ICD-9 and CPT coding, and enter demographic information and coding information onto the OIA billing system, based on Client's documentation of services provided to each patient.
- 8. Conduct electronic filing with Medicare, Medicaid and all other third-party payors whenever reasonably possible.

- 9. Conduct electronic remittance from Medicare and all other payors whenever reasonably possible.
- 10. Mail patient/payor statements, notices and pre-collection letters.
- Provide and man a toll-free "800" phone number to answer phone inquiries concerning patient account information.
- 12. Respond to inquiries received from patients and/or third-party payors.
- 13. Receive all payment and reimbursement notices from Client's bank and post payments to the appropriate patient account.
- 14. Post all contract discounts and adjustments that are required by law or authorized by the Client.
- 15. Provide fee schedule consultation, evaluation and development.
- 16. Provide payor contract review via a written synopsis and conversations with Client.
- 17. Provide third-party payor credentialing for all necessary provider numbers.
- 18. Provide customized billing statements in Client's name.
- 19. File primary, secondary and tertiary insurance for patients and resubmit rejections and no action accounts.
- 20. Back-up Client data off billing system regularly and store back-up tapes off site.
- 21. Provide monthly, quarterly, annual and special management reporting as directed by Client, to include, for example:
 - monthly/yearly financial comparative trends by payor and procedure
 - charge and payment analysis total and by payor
 - location productivity profile and summary
 - aging payment report
 - general accounts receivable summary
 - physician documentation feedback (if applicable)
- 22. Regularly provide current information concerning governmental regulations, third-party payor activities, competition, economic changes and other outside influences affecting Client.
- 23. Follow up on delinquent insurance accounts.

- 24. Provide annual charge review and analysis/projections.
- 25. Provide annual impact analysis of Medicare reductions and/or participation evaluation and recommendation.
- 26. Maintain computer system with system generated operational reports.
- 27. Provide physician enrollment (and re-enrollment) for third-party payor contracts and healthcare facilities (i.e. hospitals and surgery centers).
- 28. If Client requests OIA to forward its unpaid billings to a collection agency, OIA will transmit the information required by the collection agency chosen by Client either by hard copy or electronically, in a mutually acceptable format, as requested by such collection agency, pursuant to instructions provided to OIA by Client.
- 29. Notify Client of all refund amounts owed by Client for the previous month. Prepare refund checks for individual patients and payors for Client's signature and release.

EXHIBIT 4.1

TRAVEL EXPENSES

This is a description of travel and related expenses that Baptist will either pay or reimburse during the time you are performing Services for Baptist in accordance with this Agreement. In addition, a number of non-reimbursable expenses are also listed.

Required Documentation. Itemized receipts and other supporting documentation MUST be submitted to Baptist before any travel expenses will be reimbursed.

TRAVEL EXPENSES

PAID/REIMBURSED BY BAPTIST

- Coach class, lowest logical, round trip commercial airfare
 - From home city to destination where Services are performed
 - Work with your Baptist contact to arrange the travel.
 - Excess baggage charges if required to perform the Services
- Travel changes necessitated by Baptist requested changes, airline requirements or physician professional or personal emergency
- Taxi or comparably priced ground transportation
- Mid-size rental car, including fuel charges where Baptist arranges and books the car
- · Parking fees at airport and hotel
- Mileage for use of personal vehicles to and from home city and destination at the IRS rate

NOT REIMBURSED

- Travel and ground transportation upgrades
- Other travel change charges not related to a schedule change or personal or professional emergency
- Use of airline frequent flyer club facilities
- Travel for spouses or other guests
- Limousine ground transportation unless preapproved by Baptist based on scheduling necessity
- Private aircraft costs or charter service
- Mileage for rental cars
- Insurance costs; e.g., life insurance, flight insurance, personal or rental car insurance, baggage insurance, etc.
- Lost baggage charges

LODGING EXPENSES

PAID/REIMBURSED BY BAPTIST

- One standard room during the duration of the training program or meeting, including the night before and the night of, as necessary due to travel schedules
 - > Baptist to book at Baptist approved facility
- Reasonable in-room meals and beverages
- Reasonable telephone and internet access service
 - > Submission of phone bill detailing charges is required
- Reasonable gratuities

NOT ROUTINELY REIMBURSED

- Incidental lodging expenses; e.g., in-room movies, laundry, dry cleaning, spa services, etc.
- Lodging upgrades or the additional cost of an alternate and more expensive hotel
- Costs related to a spouse or other guest staying with you
- With the exception of circumstances described in the allowable lodging expenses column, charges for additional nights before or after the Service period
- · Fitness facility charges

MEALS AND OTHER EXPENSES

PAID/REIMBURSED BY BAPTIST

Baptist will reimburse meals up to a maximum of \$30
per day (inclusive of tax and tip). (This excludes meal
expenses paid by a Baptist employee)

EXPENSES NOT ROUTINELY REIMBURSED

- Duplicative meals (where Baptist has provided a meal during the meeting or training, unless your travel schedule requires missing the meeting or training meal)
- Hospitality or entertainment expenses of any kind, including such items as golf fees, excursion tour fees, sports tickets, etc.
- Meals for spouses or other guests
- Meals with other business colleagues
- · Personal grooming expenses; e.g., barber, hairdressers,

- shoe shine, etc.

 Loss or theft of cash advance money, airline tickets, personal funds or property

 Parking tickets or traffic violation fees

 Personal automobile repairs

A.6.

Lease

OFFICE LEASE AGREEMENT

ARTICLE 1. BASIC LEASE TERMS

- 1.1. Parties. This Office Lease agreement ("Lease") is entered into by and between the following Landlord and Tenant: CYPRESS REALTY HOLDINGS COMPANY II, LLC, a Delaware limited liability company ("Landlord"); and WEST TENNESSEE IMAGING, LLC, a Tennessee limited liability company ("Tenant").
- 1.2. Leased Premises. In consideration of the rents, terms, provisions and covenants of this Lease, Landlord hereby leases, lets and demises to Tenant and Tenant hereby leases and accepts from Landlord the following described premises ("Leased Premises"), as shown on the floor plan which is attached as Exhibit A-1 hereto and incorporated by reference herein:

Approximately 8,258 rentable square feet on the first floor of the Wolf River Office Facility located at 7600 Wolf River Blvd ("Building"), Suite ______, Germantown, Tennessee 38138 located on certain real property owned by Landlord described more particularly on Exhibit A-2 annexed hereto and incorporated herein by this reference ("Project").

Landlord anticipates that the Building, a two story structure with drop off covered portico and a public elevator, shall contain approximately 34,703 rentable square feet. Parking shall be provided at approximately five (5) spaces per 1,000 square feet of Building.

Term. Subject to and upon the conditions set forth herein, the term of this Lease shall commence on the earlier of (i) the date of "Substantial Completion" as defined on Exhibit "B" Section 3 e. or (ii) the date the Tenant takes possession of the Leased Premises for the purposes of conducting Tenant's business ("Commencement Date"), and shall expire one hundred twenty (120) months thereafter. Landlord and Tenant shall confirm the Commencement Date and expiration date in writing within thirty (30) days after the actual Commencement Date in the form reasonably requested by Landlord. Upon Tenant's taking possession of the Leased Premises for the purpose of conducting business shall be deemed acceptance of the Leased Premises by Tenant. As used herein, the defined term "Term" shall mean the initial 120 month term described in this Section 1.3, together with any and all Renewal Terms, as defined in Section15.3. Notwithstanding the foregoing, if the Commencement Date has not occurred by the Outside Completion Deadline (defined below), then Tenant may terminate this Lease, effective as of the Outside Completion Deadline, by delivering written notice to Landlord, and upon such termination, Landlord shall promptly return the Security Deposit to Tenant, and neither party will have any further obligation under this Lease. As used in this Lease, "Outside Completion Deadline" means July 1, 2015, unless construction of the Building or the Leased Premises is delayed by an act of God, force majeure, or Tenant Delay (as defined on Exhibit "B"), in which case the Outside Completion Deadline will be extended by the number of days by which construction of the Building or the Leased Premises has been delayed by act of God, force majeure, or Tenant Delay.

1.4. Base Rent and Security Deposit. Base Rent shall be payable in monthly installments on the first day of each month, as provided in Section 2.1 herein below, in accordance with the following Base Rent Schedule:

For the period from the Commencement Date through and for a period of twelve (12) consecutive calendar months ("First Year"), Base Rent shall equal \$23.50 times the total rentable square feet of the Leased Premises.

Upon expiration of the First Year and the expiration each calendar year thereafter throughout the remainder of the Term of this Lease, the monthly Base Rent shall be increased to an amount equal to one hundred two percent (102.00%) of the monthly Base Rent payable for the immediately preceding year of the Term, and such increased monthly Base Rent shall be payable for each month during the next succeeding twelve (12) month period.

There is an initial Security Deposit of \$953,915.55 required under this Lease. The Security Deposit may be posted, at Tenant's election, either in cash or pursuant to an irrevocable standby letter of credit in a form and issued by a regional commercial bank in the amount scheduled on Exhibit "D" annexed hereto and incorporated herein by this reference. Absent the prior occurrence of a Tenant event of default, the Security Deposit shall decrease over the Term as provided in Exhibit "C." The form and issuer of the letter of credit shall be mutually satisfactory to Landlord and Tenant. In the event Tenant's letter of credit requires an annual commitment fee, then provided that Tenant is not default hereunder beyond any applicable cure period, Landlord agrees to each year reimburse Tenant up to, but not exceeding, the lesser of (i) \$3,000.00, or (ii) fifty percent (50%) of such commitment fee. The letter of credit shall provide for annual renewals. Tenant's failure to have the letter of credit renewed not less than thirty (30) days prior to expiration of the letter of credit shall permit the Landlord to draw the entire amount of the letter of credit and such failure shall be considered a Tenant event of default hereunder if said letter of credit is not renewed within said 30day period. If Tenant shall fail to timely renew the letter of credit within said thirty (30) day period, and thereafter, Landlord shall excuse Tenant's default and elect not to terminate this Lease, Landlord shall promptly return any letter of credit proceeds drawn and received by Landlord as a result of Tenant's failure to timely renew the letter of credit. The letter of credit shall further permit a full draw by Landlord in the event there is a Tenant event of default under this Lease.

The Tenant's Pro Rata Share of Landlord's Operating Expenses as defined in Section 2.3 herein below shall be determined as provided in Section 2.2 herein below.

1.5. Notice Addresses.

Landlord's Address:

Cypress Realty Holdings Company II, LLC 700 Colonial Road, Suite 100 Memphis, Tennessee 38117 Attn: Price D. Ford, Sr., Chief Manager

With a copy to:

Tenant's Address:

West Tennessee Imaging, LLC 840 Crescent Center Drive, Suite 200 Franklin, Tennessee 37067 Attn: Cannon King, Chief Manager

With a copy to:

Lurie and Associates, LLC 2650 Thousand Oaks Blvd, Suite 2350 Memphis, Tennessee 38118 Attn: Property Manager

1.6. Permitted Use. The Leased Premises shall be used only for an imaging clinic and administrative and offices services consistent with or ancillary thereto, and for no other purpose without the prior written consent of Landlord.

ARTICLE 2. RENT

- 2.1. Base Rent. Tenant agrees to pay monthly as Base Rent, as adjusted, during the term of this Lease the sum of money set forth in Section 1.4 of this Lease, which amount shall be payable to Landlord at the address shown above or at such other address as designated in writing by Landlord or Landlord's Property Manager. A monthly installment of Base Rent as provided in Section 1.4 shall be due and payable on or before the first (1st) day of each calendar month thereafter during the Term of this Lease; provided, if the Commencement Date should be a date other than the first (1st) day of a calendar month, the monthly Base Rent above shall be prorated for the first (1st) month to the end of that calendar month, and all succeeding installments of Base Rent shall be payable on or before the first (1st) day of each succeeding calendar month during the Term of this Lease. Tenant shall pay, as additional rent, all other sums due under this Lease throughout the Term of this Lease. All Base Rent and additional rent shall be paid by Tenant to Landlord without abatement (except as provided herein), demand, offset, deduction or counterclaim by Tenant.
- Operating Expenses. It is the intent and purpose of Landlord and Tenant that the 2.2. Base Rent payable by Tenant to Landlord, as provided in Sections 1.4 and 2.1 hereinabove, shall be absolutely "net" to Landlord. Therefore, in addition to such payment of Base Rent, Tenant agrees to pay, effective as of the Commencement Date, as additional rent Tenant's Pro Rata Share of Landlord's "Operating Expenses" (as defined in Section 2.3 herein below) for the Building and/or Project of which the Leased Premises are a part in any calendar year during the Term of this Lease. Tenant shall make a monthly contribution, as calculated by the Landlord, for Tenant's Pro Rata Share of the estimated Operating Expenses for each calendar year, which amount shall be adjusted each year based upon anticipated Operating Expenses. Within nine (9) months following the close of each calendar year, Landlord shall provide Tenant an accounting showing in reasonable detail all computations of additional rent due under this Section. In the event the accounting shows that the total of the monthly payments made by Tenant exceeds the amount of additional rent due by Tenant under this Section, the excess shall be credited against Tenant's Pro Rata Share of the established Operating Expenses due in the following year. In the event the accounting shows that the total of the monthly payments made by Tenant is less than the amount of additional rent due by Tenant under this Section, the accounting shall be accompanied by an invoice for the additional rent. Notwithstanding any other provision in this Lease, during the year in which the Lease terminates, Landlord, prior to the termination date, shall have the option to invoice Tenant for Tenant's Pro Rata Share of Operating Expenses based upon the previous year's Operating Expenses. If this Lease shall terminate on a day other than the last day of a calendar year, the amount of any additional rent payable by Tenant applicable to the year in which such termination shall occur shall be prorated on

the ratio that the number of days from the commencement of the calendar year to and including the termination date bears to 365. Tenant shall have the right, at its expense, to audit Landlord's books relevant to the additional rent payable under this Section. With respect to such audit, Tenant 1) may review Landlord's books during regular office hours, 2) must perform such audit at the location of Landlord's books, 3) must request such audit within thirty (30) days of Landlord's delivery of its annual reconciliation of Operating Expenses, 4) must deliver to Landlord a copy of the results of such audit, 5) may not audit the same calendar year more than one time, and 6) must keep the results of such audit confidential.

Landlord estimates Tenant's share of Operating Expenses to be \$10.56 per rentable square foot for the first full 12 calendar months of the Lease. Operating Expenses shall never exceed the normal and customary operating expenses for Class A multi-tenant medical buildings located in the Wolf River Corridor in Memphis, Tennessee.

For purposes of this Section 2.2, Tenant's Pro Rata Share shall be computed by multiplying the total amount of the Operating Expenses by a fraction, the numerator of which shall be the number of rentable square feet in the Leased Premises (as set forth in Section 1.2), and the denominator of which shall be the total number of rentable square feet in the Building (as the same may be increased from time to time). If the total number rentable square feet in the Building is ever increased for any reason, then the computation of Tenant's Pro Rata Share shall be based on the new number of rentable square feet in the building; provided however, Landlord shall promptly notify Tenant of any such changes and shall provide a written explanation for the change. Assignees of Tenant may only audit periods for which they actually occupy the Leased Premises and subtenants of Tenant shall have no audit rights. Tenant agrees to pay any additional rent due under this Section within ten (10) days following receipt of the invoice or accounting showing additional rent due.

Definition of Operating Expenses. The term "Operating Expenses" includes all costs and expenses of every kind and nature incurred by Landlord with respect to the ownership, management, maintenance, security, repair, replacement, restoration, or operation of the Building or Project of which the Leased Premises are a part, including, but not limited to, the following: maintenance, repair and replacement costs; electricity, fuel, water, sewer, gas and other utility charges attributable to the common areas of the Building or Project; the cost of operating, repairing, maintaining, and renovating the utility, telephone, mechanical, sanitary, storm drainage, and elevator systems, and service contracts in connection therewith; the cost of licenses, certificates, permits, and inspections, security and alarm services, window washing and janitorial services; trash and snow removal; landscaping, irrigating, gardening, relamping, and all supplies, tools, equipment and materials used in the operation, repair and maintenance of the Building or Project or any portion thereof; costs of operation, repair, maintenance and replacement of all systems and equipment and components thereof of the Building or Project; fire protection; pest control; all fees and other costs, including management fees, consulting fees, legal fees and accounting fees, of all managers, contractors and consultants in connection with the management, operation, maintenance and repair of the Project; wages and benefits payable to employees of Landlord or any management company engaged by Landlord and whose duties are directly connected with the operation and maintenance of the Building; all services, supplies, repairs, replacements or other expenses for maintaining and operating the Building or Project, including parking and common areas, on-site traffic controls, private drives, curbs, sidewalks, walkways, lift stations, drainage facilities, retaining walls, and the related grounds of the Project; the costs of maintaining and repairing the items set forth in Sections 4.1 and 5.1 below which Landlord is required to maintain and repair; the cost, amortized over its useful life, of any capital improvement made to the Building by Landlord after the date of this Lease which is required under any governmental law or regulation that was not applicable to the Building at the time it was constructed; the cost, amortized over its useful life, of installation of any device or other equipment which improves the operating efficiency of any system within the Leased Premises and thereby reduces Operating Expenses, but only to the extent of such reduction; all other expenses which would generally be regarded as operating and maintenance expenses which would reasonably be amortized over a period not to exceed five (5) years; all "Taxes" (as hereinafter defined); all dues and assessments by means of deed restrictions and/or owners' associations which accrue against the Building or Project of which the Leased Premises are a part during the Term of this Lease; and all insurance premiums Landlord is required to pay, including public liability insurance, with respect to the Building or Project as set forth in Article 7 and any additional insurance generally carried by owners of Class A multi-tenant medical buildings located in the Wolf River Corridor in Memphis, Tennessee.

The term "Operating Expenses" does not include the following: any taxes on Landlord's income; franchise taxes, or corporate or unincorporated business taxes; estate, gift, succession or inheritance taxes; any capital gains, mortgage recording or transfer taxes or any similar taxes imposed on Landlord; expenses incurred in leasing to, or procuring of tenants, leasing commissions, advertising expenses and expenses for the renovating of space for new tenants, as opposed to all tenants of the Project; interest or principal payments on any mortgage or other indebtedness of Landlord; compensation paid to any executive level employee of Landlord above the grade of property manager; any depreciation or amortization allowance or expense properly associated with a capital improvement under generally accepted accounting principles, consistently applied; expenses which are the sole responsibility of Tenant; costs incurred by Landlord in discharging its obligations in constructing the Initial Improvements; costs (including permit, license, and inspection fees) incurred in renovating, improving, decorating, painting, or redecorating vacant space or space for tenants, as opposed to costs associated with renovating, improving, decorating, painting or redecorating space for all tenants of the Project; Landlord's cost of electricity or other service sold to tenants for which Landlord is actually reimbursed as a charge over the Rent and Additional Rent payable under the lease with such tenants; costs incurred by Landlord for alterations that are considered capital improvements and replacements under generally accepted accounting principles consistently applied, except that the annual amortization of these costs shall be included to the extent expressly permitted in the above paragraph; costs of a capital nature including capital improvements, capital repairs, capital equipment, and capital tools, as determined under generally accepted accounting principles consistently applied, except that the annual amortization of these costs shall be included in the definition of "Operating Expenses" to the extent expressly permitted in the immediately preceding paragraph; costs incurred because Landlord or another tenant violated the terms of any lease; overhead and profit paid to subsidiaries or affiliates of Landlord for management or other services relating to the Building or Project, but only to the extent that the cost of such expenses exceeds amounts or rates customarily charged in arms-length negotiated agreements or arrangements with independent third parties; rentals and other related expenses incurred in leasing air conditioning systems, or other equipment ordinarily considered to be of a capital nature, except equipment used in providing janitorial services that is not affixed to the Building; items and services for which Tenant reimburses Landlord or pays third parties, or that Landlord provides selectively to one or more tenants of the Building other than Tenant without reimbursement for the same; costs and expenses of repairing items that are covered by warranties or insurance, to the extent of actual payment to Landlord under such warranty or insurance coverage; advertising and promotional expenditures that do not benefit all tenants of the Project; costs incurred to remedy structural defects in original construction materials or installations; any costs, fines, or penalties incurred because Landlord violated any governmental rule or authority; costs incurred to test, survey, cleanup, contain, abate, remove, or otherwise remedy Hazardous Substances in, on, or under the Project unless the Hazardous Substances were in, on, or under the Project because of Tenant's negligence or intentional acts; and costs incurred to comply with the ADA Laws except to the extent compliance is required because of amendments to the ADA Laws which amendment(s) became effective after the date this Lease is signed.

As used in this Section 2.3, the term "Taxes" shall mean and include the following: Any and all taxes and assessments and governmental charges (special or otherwise of every kind and nature) whether federal, state, county or municipal, including any fees, assessments and charges levied against the Building or Project (including the land) and whether they be by taxing or management districts or authorities presently taxing or by others, subsequently created or otherwise, and any other taxes and assessments attributable to the Building (or its operation) or the Project, and the grounds, parking areas, driveways, and alleys around the Building, including without limitation real taxes due in lieu of ad valorem real estate taxes and, including without limitation reasonable expenses incurred by Landlord in contesting the validity of, seeking a reduction in, or seeking to prevent an increase in any such taxes or assessments, excluding, however, any taxes on Landlord's income; franchise taxes (other than as provided below), or corporate or unincorporated business taxes; estate, gift, succession or inheritance taxes; any capital gains, mortgage recording or transfer taxes or any similar taxes imposed on Landlord; if the present method of taxation changes so that, in lieu of or in addition to the whole or any part of any Taxes levied on the Building or Project (including the land), there is levied on Landlord a capital tax directly on the rents received therefrom or a franchise tax, assessment, or charge based, in whole or in part, upon such rents for the Building or Project, then all such taxes, assessments, or charges, or the part thereof so based, shall be deemed to be included within the term "Taxes" for the purposes hereof.

- 2.4. Late Payment Charge. Other remedies for nonpayment of rent notwithstanding, if the monthly rental payment is not received by Landlord on or before the fifth (5th) day of the month for which the rent is due, or if any other payment due Landlord by Tenant is not received by Landlord on or before the tenth (10th) day of the month next following the month in which Tenant was invoiced, a late payment charge of five percent (5%) of such past due amount shall become due and payable in addition to such amounts owed under this Lease.
- 2.5. Increase in Insurance Premiums. If an increase in any insurance premiums paid by Landlord for the Building is caused by Tenant's use of the Leased Premises in a manner other than as set forth in Section 1.6, or if Tenant vacates the Premises and Landlord elects not to terminate this Lease, then Tenant shall pay as additional rent, or be responsible for, the amount of such increase related to Tenant's vacating the Premises.

- 2.6. Security Deposit. The security deposit set forth above shall be held by Landlord for the performance of Tenant's covenants and obligations under this Lease, it being expressly understood that the security deposit shall not be considered an advance payment of rental or a measure of Landlord's damage in case of default by Tenant. Upon the occurrence of any event of default by Tenant, upon three (3) days' prior notice to Tenant, Landlord may, from time to time, without prejudice to any other remedy, use the security deposit to the extent necessary to make good any arrears of rent, or to repair any damage or injury, or pay any expense or liability incurred by Landlord as a result of the event of default, and any remaining balance of the security deposit shall be returned by Landlord to Tenant upon termination of this Lease. If any portion of the security deposit is so used or applied, Tenant shall upon ten (10) days written notice from Landlord, deposit with Landlord by cash or cashier's check an amount sufficient to restore the security deposit to its original amount.
- Surrender of Leased Premises and Holding Over. At the expiration or any earlier 2.7. termination of the tenancy created herein, Tenant shall (a) immediately surrender the Leased Premises to Landlord in the same condition as the Leased Premises was on the date of delivery of possession to Tenant reasonable wear and tear excluded; (b) remove the MRI chillers or any other rooftop equipment installed by Tenant and any lead lining walls used in the MRI suites (provided, however, Tenant shall have no obligation to remove the mobile imaging pad); and (c) surrender all keys to the Leased Premises. In the event that Tenant does not vacate the Leased Premises upon the expiration or termination of this Lease, Tenant shall be a tenant at will for the holdover period and all of the terms and provisions of this Lease shall be applicable during that period, except that Tenant shall pay Landlord as Base Rental for the period of such holdover an amount equal to one and onehalf (1.5) times the Base Rent which would have been payable by Tenant had the holdover period been a part of the original Term of this Lease. Tenant agrees to vacate and deliver the Leased Premises to Landlord upon Tenant's receipt of notice from Landlord to vacate. The rental payable during the holdover period shall be payable to Landlord on demand. No holding over by Tenant, without the consent of Landlord, shall operate to extend the Term of this Lease. The obligations of Tenant hereunder shall survive the expiration or termination of this Lease for a period of one year.

ARTICLE 3. OCCUPANCY AND USE

3.1. Use. Tenant warrants and represents to Landlord that the Leased Premises shall be used and occupied only for the purpose as set forth in Section 1.6. Tenant shall occupy the Leased Premises, conduct its business and control its agents, employees, invitees and visitors in such a manner as is lawful, reputable and will not create a nuisance. Tenant shall not permit any operation which emits any odor or matter which intrudes into other portions of the Building, use any apparatus or machine which makes undue noise or causes vibration in any portion of the Building or otherwise interfere with, annoy or disturb any other lessee in its normal business operations or Landlord in its management of the Building. Tenant shall neither permit any waste on the Leased Premises nor allow the Leased Premises to be used in any way which would, in the opinion of Landlord, be extra hazardous on account of fire or which would in any way increase or render void the fire insurance on the Building. Landlord understands that the Leased Premises will include MRI suites and that the operation of such suites entails noises and vibrations and that such noises, vibrations and other

manifestations of such use as an MRI suite will not be considered to breach this covenant or to be an extra hazardous use.

- 3.2. Signs. No sign of any type or description shall be erected, placed or painted in or about the Leased Premises or Project except those signs submitted to Landlord in writing and approved by Landlord in writing, and which signs are in conformance with Landlord's sign criteria established for the Project. Any listings for Tenant or its employees on the Building directory in excess of the basic listing for Tenant shall be at Tenant's sole cost and expense. Landlord shall provide, at its cost, building standard signage on the interior directory and Leased Premises front door signage. Subject to regulatory approval, Landlord shall construct, at Landlord's expense, a monument sign on the street frontage and Tenant shall be named thereon.
- Compliance with Laws, Rules and Regulations. The Building, as constructed, and 3.3. the Project, will comply with all federal, state, or local laws, ordinances, orders, rules and regulations of state, federal, municipal or other agencies or bodies now or hereafter enacted in all material respects ("Laws"). The foregoing notwithstanding, no minor, temporal, or incidental violation of Laws by Landlord with respect to the Building or the Project shall be deemed to be a default by Landlord hereunder, unless such violation unreasonably interferes with Tenant's conduct of business or use and enjoyment of the Leased Premises. Tenant, at Tenant's sole cost and expense, shall comply, during the Term, with all Laws and those rules and regulations of the Building adopted by Landlord which are set forth on Schedule 3.3 attached to this Lease, as the same may be amended from time to time during the Term. The foregoing notwithstanding, no minor, temporal, or incidental violation of Laws by Tenant with respect to the Premises shall be deemed to be a default by Tenant hereunder, unless such violation unreasonably interferes with Landlord's normal operation of the Building or Project, or interferes with other tenants' quiet enjoyment of their premises located within the Building or Project. Landlord shall have the right at all times to change and amend the rules and regulations in any reasonable manner as may be deemed advisable for the safety, care, cleanliness, preservation of good order and operation or use of the Building or the Leased Premises; provided however, that (i) Tenant shall be given reasonable advance notice of such changes; (ii) such changes shall not unreasonably interfere with Tenant's conduct of business or use and enjoyment of the Leased Premises; and (iii) no such changes shall require Tenant to pay additional moneys that are not properly characterized as Operating Expenses in accordance with Section 2.3. All changes and amendments to the rules and regulations of the Building will be sent by Landlord to Tenant in writing and shall thereafter be carried out and observed by Tenant to the same extent as if they had been attached hereto.

3.4. Hazardous Substances.

(1) Definitions. The term "Hazardous Substance(s)," as used in this Lease, shall include, without limitation, any hazardous substances, hazardous waste, pollutant or contaminant that are considered harmful to human health or the environment as identified or designated in any Laws at any time and including biological substances and materials, natural gas, flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and petroleum products, and any and all substances declared at any

time to be hazardous or toxic or are otherwise regulated under any Laws now or hereafter enacted or promulgated by any governmental authority.

(2) Tenant's Restrictions. Tenant shall not cause or permit to occur:

- (a) Any violation of any Laws related to environmental conditions on, under, or about the Leased Premises, or arising from Tenant's use or occupancy of the Leased Premises, including, but not limited to, soil and ground water conditions;
- (b) The use, generation, release, manufacture, refining, production, processing, storage, or disposal of any Hazardous Substance on, under, or about the Leased Premises, or the transportation to or from the Leased Premises of any Hazardous Substances except for *de minimis* amounts of Hazardous Substances customarily used in the imaging business, limited quantities reasonably necessary for the operation or maintenance of office equipment or limited quantities of cleaning fluids and solvency required in the normal operation of the Leased Premises, and provided that any and all use of such Hazardous Substances shall be in compliance with Laws and the terms of this Lease.

(3) Tenant's Obligations.

- (a) Tenant shall, at Tenant's own expense, comply with all Laws regulating the use, generation, storage, transportation, or disposal of Hazardous Substances.
- (b) Tenant shall not discharge, leak or emit or permit to be discharged, leaked or emitted, any material or substance into the atmosphere, ground, sewer system or any body of water, if that material or substance (as is determined by Landlord's authorized environmental expert, or any governmental authority) does or may pollute or contaminate the same or may adversely affect (a) the health, welfare, or safety of persons, whether located on the Premises or else ware, or (b) the condition, use, or enjoyment of the Building or the Project. Tenant shall not use the Premises in a manner objectionable to Landlord or other occupants of the Building by reason of noise, odors, vibrations or interference with other businesses in the Building.
- (c) Tenant shall, at Tenant's own expense, make all submissions to, provide all information required by, and comply with all requirements of all governmental authorities under the Laws which submissions, information and requirements are related to Tenant's use of the Leased Premises.
- (d) Should any governmental authority or any third party demand that a cleanup plan be prepared and that a cleanup be undertaken because of any deposit, spill, discharge, or other release of Hazardous Substances that occurs during the Term of this Lease, at or from the Leased Premises, and which arises from Tenant's use or occupancy of the Leased Premises, then Tenant shall, at Tenant's own expense, immediately prepare and submit the required plans and all related bonds and other financial assurances; and Tenant shall carry out all such cleanup plans.
- (e) Tenant shall promptly provide all information regarding the use, generation, storage, transportation, or disposal of Hazardous Substances that is reasonably requested by Landlord. If Tenant fails to fulfill any duty imposed under this Section within a reasonable time,

Landlord may do so and in such case, Tenant shall cooperate with Landlord in order to prepare all documents Landlord deems necessary or appropriate to determine the applicability of the Laws to the Leased Premises and Tenant's use thereof, and for compliance therewith, and Tenant shall execute all documents promptly upon Landlord's request. No such action by Landlord and no attempt made by Landlord to mitigate damages under any Laws shall constitute a waiver of any of Tenant's obligations under this Section.

- (f) Tenant shall comply with this Lease, all Laws, and all reasonable and uniformly imposed rules or regulations of Landlord regarding the storage and disposal of Hazardous Substances and all wastes and materials, provided, however, that in no event shall Landlord's rules and regulations unreasonably interfere with Tenant's conduct of business or use and enjoyment of the Leased Premises.
- (g) Tenant's obligations and liabilities under this Section are in addition to any other obligations and liabilities Tenant may have to Landlord at law or in equity and shall survive the expiration of this Lease.

(4) Tenant's Indemnity.

- (a) Tenant shall indemnify, defend, and hold harmless Landlord, the manager of the Project, and their respective officers, directors, beneficiaries, shareholders, partners, agents, and employees from all fines, penalties, suits, procedures, claims, liabilities, settlements, damages, costs, expenses and actions of every kind, and all costs associated therewith (including attorneys' and consultants' fees), and any personal injury or death or property damage arising out of or in any way connected with any presence, disposal, transportation, use deposit, spill, discharge, or other release of Hazardous Substances that occurs during the term of this Lease, at or from the Leased Premises and which arises from Tenant's use or occupancy of the Leased Premises, including, without limitation, any Hazardous Substances permitted under Section 3.4(2)(b), or from Tenant's failure to provide all information, make all submissions, and take all steps required by all Authorities under the Laws and all other environmental laws which are related to Tenant's use of the Leased Premises.
- (b) Tenant hereby agrees to save, indemnify, defend, and hold Landlord harmless from any and all claims, actions, causes of action, and losses, including attorney's and consultant's fees and expenses resulting from the release or threatened release of any Hazardous Substances on or about the Leased Premises, which occur from Tenant's use and occupancy of the Leased Premises, or from Tenant's failure to abide by the Laws. This warranty, representation and indemnification shall survive the expiration or other termination of this Lease. If required by any Laws, at the earlier of the expiration or other termination of this Lease or the time Tenant ceases to occupy the Leased Premises, or at any other time, Tenant shall cause the entire Leased Premises to be decontaminated from Hazardous Substances in accordance with all applicable Laws and shall bear all expenses related to such decontamination to the extent such contamination was caused by Tenant or one of its agents, employees, contractors, or invitees. Tenant agrees to reimburse Landlord on demand for any costs incurred by Landlord as a result of enforcing this provision of the Lease, including, but not limited to, attorneys' fees and expenses. Tenant's obligation in this regard shall

constitute an independent obligation to indemnify Landlord. Such indemnity obligation shall survive the expiration or other termination of this Lease.

- 3.5. Warranty of Possession. Landlord warrants that it has good title to the Project and warrants that it has the right and authority to execute this Lease, and Tenant, upon payment of the required rents and subject to the terms, conditions, covenants and agreements contained in this Lease, shall have quiet possession of the Leased Premises during the Term of this Lease as well as any extension or renewal thereof. The foregoing notwithstanding, Landlord shall not be responsible for the acts or omissions of any other tenant or third party that may interfere with Tenant's use and enjoyment of the Leased Premises, but, upon written notice from Tenant identifying any such interference by other tenants or third parties, Landlord shall use best efforts to cooperate with Tenant in alleviating or remedying any such interference, provided that no such efforts will require Landlord to take any action in violation of any Laws or other agreements to which Landlord may be a party.
- Inspection. Landlord or its authorized agents shall at any and all reasonable times upon at least twenty-four (24) hours' prior notice to Tenant, have the right to enter the Leased Premises (other than any rooms housing medical records or any MRI suites) to inspect the same, to supply janitorial service or any other service to be provided by Landlord, to alter, improve or repair the Leased Premises or any other portion of the Building, and to show the Leased Premises to prospective purchasers at any time or prospective tenants within the last 6 months of the Term. Tenant hereby waives any claim for damages for injury or inconvenience to or interference with Tenant's business, any loss of occupancy or use of the Leased Premises, and any other loss occasioned thereby. Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Leased Premises. Tenant shall not change Landlord's lock system or in any other manner prohibit Landlord from entering the Leased Premises. Landlord shall have the right to use any and all means which Landlord may deem proper to open any door in an emergency other than any rooms housing medical records or any MRI suites without liability therefor. Landlord acknowledges that its entering the MRI Suites without the consent (which shall not be unreasonably withheld) and accompaniment of Tenant may cause significant damage to the equipment located therein. Accordingly, Landlord shall only enter the MRI Suites or rooms within the Leased Premises containing medical records with the accompaniment of a representative of Tenant, and Tenant shall make available to Landlord a current list of Tenant representatives that Landlord may contact at night and on weekends for purposes of emergency inspections or entry into the Leased Premises. Further, if Landlord is unable to enter the MRI Suites or rooms within the Leased Premises containing medical records because of Landlord's conformity with the provisions of this Section 3.6, Landlord shall have no liability to Tenant whatsoever for any damages of any nature to any of Tenant's personal property located within the Leased Premises that arises out of Landlord's inability to access the MRI Suites or rooms within the Leased Premises containing medical records.

ARTICLE 4. UTILITIES AND SERVICE

4.1. Building Services. Landlord shall operate, maintain and make all necessary repairs (both structural and non-structural) to the part of the mechanical, gas, electrical, sanitary, heating, air conditioning, ventilating, elevator, plumbing, life safety and other service systems of the Building (collectively the "Building Systems") which provide service to the Leased Premises (but not to the

distribution portions of such Building Systems located within the Leased Premises) and the public portions of the Building, both exterior and interior, in conformance with the standards of owners of similar Class A multi-tenant medical buildings located in the Wolf River Corridor in Memphis, Tennessee. Landlord, at its expense, shall provide water for Leased Premises during the Term of this Lease. Electricity for the Leased Premises shall be separately metered, and paid directly by Tenant to the utility company furnishing such electrical utility services. Tenant shall pay all telephone, telecommunications, data and other similar charges. Landlord shall furnish Tenant hot and cold water at those points of supply provided for general use of other Tenants in the Building, central heating and air conditioning in season at temperatures and in amounts requested by Tenant as customarily required for outpatient imaging uses. HVAC and other operating systems will be operational and available to Tenant at all times, twenty-four (24) hours each day, seven (7) days per week, fifty-two (52) weeks per year, including holidays without any "after hours" charges. Landlord shall also provide routine maintenance, painting and electric lighting service for all public areas and special service areas of the Building in the manner and to the extent commensurate with the standards employed by owners of similar Class A multi-tenant medical buildings located in the Wolf River Corridor in Memphis, Tennessee. Landlord may, in its sole discretion, provide additional services not enumerated herein. Failure by Landlord to any extent to provide these defined services or any other services not enumerated, or any cessation thereof, other than as a result of the willful misconduct or gross negligence of Landlord, shall not render Landlord liable in any respect for damages to either person or property, be construed as an eviction of Tenant, work an abatement of rent or relieve Tenant from fulfillment of any covenant in this Lease. Should any of the Building Systems fail or for any cause cease to function properly, Landlord shall use reasonable diligence to repair the same promptly, but Tenant shall have no claim for rebate of Rent or Additional Rent on account of any such interruption in services occasioned from such repairs. Except for the willful misconduct or gross negligence of Landlord, Landlord shall not be liable to Tenant for any damage to person or property caused by defects in the Building Systems. Landlord reserves the right from time to time to make changes in the utilities and services provided by Landlord to the Building provided such utilities and services shall at all times be commensurate with standards employed by owners of similar Class A multi-tenant medical buildings located in the Wolf River Corridor in Memphis, Tennessee. Tenant shall have access to the Leased Premises twenty-four (24) hours per day, seven (7) days per week, fifty-two (52) weeks per year, including holidays.

- **4.2.** Card Access System. A card access system shall control all entries to the Building and the Leased Premises. Such system may be customized, at Tenant's sole cost and expense, in order to suit Tenant's specific requirements.
- 4.3. Theft or Burglary. Landlord shall not be liable to Tenant or to any employee of Tenant for losses to property, including loss of trade secrets or other confidential information, or personal injury caused by criminal acts or entry by unauthorized persons into the Leased Premises or the Project. Landlord will promptly notify Tenant regarding any material incidents at the Building relating to crimes or the security of the tenants.
- 4.4. Janitorial Service. Landlord shall furnish janitorial services to the Leased Premises and public areas of the Building five (5) times per week during the Term of this Lease, excluding holidays. The scope of services may be adjusted as necessary by the Landlord. Landlord shall not provide janitorial service to kitchens or storage areas included in the Leased Premises. In the event

that Tenant should request any additional janitorial services which are above the standards of janitorial services presently being furnished in Class "A" office buildings in the Germantown, Tennessee market area, Tenant shall promptly pay all costs for such above standard janitorial services to Landlord.

- 4.5. Excessive Utility Consumption. Tenant shall pay all utility and other costs occasioned by electrodata processing machines, telephone equipment, computers and other equipment of high electrical consumption, including without limitation, at Landlord's election, the cost of installing, servicing and maintaining any special, additional and/or separate inside or outside wiring or lines, meters or submeters, transformers, poles, air conditioning, or the cost of any other equipment necessary to monitor and/or increase the amount or type of electricity or power available to the Leased Premises.
- 4.6. Window Coverings. Tenant, at its sole cost and expense, shall furnish and install window coverings on the interior side of all exterior windows of the Leased Premises in order to maintain a uniform exterior appearance, in accordance with specifications approved in writing by Landlord and consistent with all other window coverings of the Building; provided, however, that Tenant shall not be required to install any window coverings that would materially interfere with Tenant's sensitive medical equipment located within the Leased Premises. Tenant shall not remove or replace these window coverings or install any other window covering which would affect the exterior appearance of the Building. Tenant may install lined or unlined over draperies on the interior sides of the aforedescribed window coverings for interior appearance or to reduce light transmission, provided such over draperies do not affect the exterior appearance of the Building or affect the operation of the Building's heating, ventilating and air conditioning systems.
- 4.7. Charge for Service. All costs of Landlord for providing the services set forth in Article 4 (except those charges paid by Tenant pursuant to Section 4.5) shall be subject to the additional rent provisions in Section 2.2.

ARTICLE 5. REPAIRS AND MAINTENANCE

5.1. Landlord Repairs. Landlord shall not be required to make any improvements, replacements or repairs of any kind or character to the Leased Premises or the Project during the term of this Lease except as are set forth in this Section. Landlord shall maintain only the roof, foundation, parking and common areas, and the structural soundness of the exterior walls, doors, corridors, windows and other structures or equipment serving the Leased Premises and the Building Systems (but not to the distribution portions of such Building Systems located within the Leased Premises), in conformance with the standards of owners of similar Class A multi-tenant medical buildings located in the Wolf River Corridor in Memphis, Tennessee. Landlord's cost of maintaining and repairing the items set forth in this Section are subject to the additional rent provisions in Section 2.2. Landlord shall not be liable to Tenant, except as expressly provided in this Lease, for any damage or inconvenience, and Tenant shall not be entitled to any abatement or reduction of Rent or Additional Rent by reason of any repairs, alterations, or additions made by Landlord under this Lease, unless such damage materially impairs Tenant's quiet enjoyment of the Leased Premises in the ordinary course of its business, and results from Landlord's negligence in the

performance of such repairs, alterations, or additions. If Landlord fails to perform any of its obligations hereunder, Landlord shall not be in default and Tenant shall not have any rights or remedies growing out of such failure unless Tenant gives Landlord written notice setting forth in reasonable detail the nature and extent of such failure and such failure is not cured within thirty (30) days following Landlord's receipt of such notice, or such longer period as may otherwise be provided herein; provided, however, if Landlord had actual knowledge of such failure or reasonably should have had such knowledge then there shall be no obligation for Tenant to provide notice hereunder. If such failure cannot reasonably be cured within thirty (30) days, the length for curing shall be extended as reasonably required. In no event shall Tenant's remedies for an alleged or actual failure to perform its obligations under this Section include the termination of this Lease.

- 5.2. Tenant Repairs. Tenant shall, at its own cost and expense, repair or replace any damage or injury to all or any part of the Leased Premises caused by any act or omission of Tenant or Tenant's agents, employees, invitees, licensees or visitors; provided, however, if Tenant fails to make the repairs or replacements promptly, Landlord may, at its option, make the repairs or replacements, and the costs of such repairs or replacements shall be charged to Tenant as additional rent and shall become payable by Tenant with the payment of the rent next due hereunder.
- 5.3. Request for Repairs. All requests for repairs or maintenance that are the responsibility of Landlord pursuant to any provision of this Lease must be made in writing to Landlord at the address in Section 1.5.
- 5.4. Tenant Damages. Tenant shall not allow any damage to be committed on any portion of the Leased Premises or Building, and at the termination of this Lease, by lapse of time or otherwise, Tenant shall deliver the Leased Premises to Landlord in as good condition as existed at the Commencement Date of this Lease, ordinary wear and tear excepted. The cost and expense of any repairs necessary to restore the condition of the Leased Premises from any damage committed by Tenant, its employees, agents, contractors or invitees shall be borne by Tenant.

ARTICLE 6. <u>ALTERATIONS AND IMPROVEMENTS</u>

- 6.1. Construction of Initial Tenant Improvements. The initial Tenant Improvements to the Leased Premises shall be constructed in accordance with the terms and conditions set forth in Exhibit "B". Landlord shall be responsible for completion and payment of the items described on Exhibit "B" and Tenant shall be responsible for completion and payment of all other items.
- 6.2. Subsequent Improvements to Leased Premises after Initial Tenant Improvements. After completion of the initial Tenant Improvements, Tenant shall not make or allow to be made any structural or mechanical alterations, or any alterations, physical additions or improvements in or to the Leased Premises in excess of Fifty Thousand and No/100 Dollars (\$50,000) without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld. Any alterations, physical additions, or improvements to the Leased Premises permitted hereunder shall immediately become the property of Landlord. Upon the expiration or earlier termination of this Lease, Tenant shall remove from the Leased Premises its, personal property, trade fixtures and medical equipment and repair any damages caused by their removal.

Upon completion of any alterations, physical additions or improvements in or to the Leased Premises by Tenant, Tenant shall provide Landlord with "as built plans", copies of all construction contracts and proof of payment for all labor and materials.

Except for personal computers, facsimile machines, copiers and other similar office equipment and equipment consistent with an imaging center, Tenant shall not install within the Leased Premises any fixtures, equipment or other improvements until the plans and location thereof have been approved by Landlord. The location, weight and supporting devices for any libraries, central filing areas, safes and other heavy equipment shall in all cases be approved by Landlord prior to initial installation or any relocation. Landlord may prohibit any article, equipment or any other item not consistent with an imaging center that may exceed the load capacity of the Building from being brought into the Building.

6.3. Mechanics Lien. Tenant will not permit any mechanic's or materialman's lien(s) or other lien to be placed upon the Leased Premises or the Project and nothing in this Lease shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied, by inference or otherwise, to any person for the performance of any labor or the furnishing of any materials to the Leased Premises, or any part thereof, nor as giving Tenant any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to any mechanic's, materialman's or other lien against the Leased Premises or the Project. In the event any such lien is attached to the Leased Premises or the Project, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, obtain the release of or otherwise discharge the same. Any amount paid by Landlord for any of the aforesaid purposes shall be paid by Tenant to Landlord on demand as additional rent.

ARTICLE 7. CASUALTY AND INSURANCE

- 7.1. Substantial Destruction. If the Leased Premises should be totally destroyed by fire or other casualty, or if the Leased Premises should be damaged so that rebuilding cannot reasonably be completed within one hundred eighty (180) days after the date of written notification by Tenant to Landlord of the destruction (or two hundred seventy (270) days in the event of destruction because of earthquake), this Lease shall terminate and the rent shall be abated for the unexpired portion of the Lease, effective as of the date of the casualty.
- 7.2. Partial Destruction. If the Leased Premises should be partially damaged by fire or other casualty, and rebuilding or repairs can reasonably be completed within one hundred eighty (180) days from the date of written notification by Tenant to Landlord of the destruction (or two hundred seventy (270) days in the event of destruction because of earthquake), this Lease shall not terminate, and Landlord shall at its sole expense proceed with reasonable diligence to rebuild or repair the Building or other improvements to substantially the same condition in which they existed prior to the damage. If the Leased Premises are to be rebuilt or repaired and are untenantable in whole or in part following the damage, and the damage or destruction was not caused by act or negligence of Tenant, its agents, employees, invitees or those for whom Tenant is responsible, the rent payable under this Lease during the period for which the Leased Premises are untenantable shall be adjusted to such an extent as may be fair and reasonable under the circumstances. In the event

that Landlord fails to complete the necessary repairs or rebuilding within one hundred eighty (180) days from the date of written notification by Tenant to Landlord of the destruction (or two hundred seventy (270) days in the event of destruction because of earthquake), Tenant may at its option terminate this Lease by delivering written notice of termination to Landlord, whereupon all rights and obligations under this Lease shall cease to exist.

- 7.3. Property Insurance. Landlord shall obtain and keep in full force and effect insurance against loss or damage by fire and other casualty to the Building, including the Initial Improvements, as may be insurable under then available standard forms of "all risk" insurance policies, in an amount equal to one hundred percent (100%) of the replacement value thereof or in such lesser amount as will avoid co-insurance (including an "agreed amount" endorsement). Landlord shall at all times during the Term of this Lease also maintain commercial general liability insurance, and such other insurance with such types and in such amount as Landlord shall deem necessary or advisable, provided, Landlord shall not be obligated in any way or manner to insure any personal property (including, but not limited to, any furniture, machinery, goods or supplies) of Tenant upon or within the Leased Premises. Tenant shall have no right in or claim to the proceeds of any policy of insurance maintained by Landlord even though the cost of such insurance may be partially borne by Tenant as Operating Expenses. All insurance proceeds shall be utilized by Landlord in accordance with any mortgage instrument on the Project.
- 7.4. Waiver of Subrogation. Landlord hereby waives and releases Tenant of and from any and all right of recovery, claim, action or cause of action, against Tenant, its agents, officers and employees, for any loss or damage that may occur to the Leased Premises, improvements to the Building of which the Leased Premises are a part, or personal property within the Building, by reason of fire or other perils against which Landlord is provided protection by insurance required under this Lease. Tenant hereby waives and releases Landlord of and from any and all right of recovery, claim, action or cause of action, against Landlord, its agents, officers and employees, for any loss or damage to the property of Tenant by reason of fire or other perils against which Tenant is provided protection by insurance required under this Lease. Landlord and Tenant agree immediately to give their respective insurance companies which have issued policies of insurance covering all risk of direct physical loss, written notice of the terms of the mutual waivers contained in this Section, and to have the insurance policies properly endorsed, if necessary, to prevent the invalidation of the insurance coverages by reason of the waivers.
- 7.5. Hold Harmless. Tenant indemnifies, defends, and holds Landlord harmless from and against any and all loss, cost, damage, or expense of any kind, including reasonable attorneys' fees, in any way arising out of claims or allegations:
- (i) resulting from Tenant's breach or default under the terms or conditions of this Lease; and
- (ii) for personal injury, bodily injury, death, or property damage for incidents occurring in or about the Leased Premises or Building caused in any way by the acts or omissions of Tenant, its agents, employees, contractors, or invitees.

When the claim is caused by the joint negligence or willful misconduct of Tenant and Landlord or Tenant and a third party unrelated to Tenant, except Tenant's agents, employees, or invitees, Tenant's duty to defend, indemnify, and hold Landlord harmless shall be in proportion to Tenant's allocable share of the joint negligence or willful misconduct.

Landlord indemnifies defends, and holds Tenant harmless from and against any and all loss, cost, damage, or expense of any kind, including reasonable attorneys' fees, in any way arising out of claims or allegations:

- (i) resulting from Landlord's breach or default under the terms or conditions of this Lease; and
- (ii) for personal injury, bodily injury, death, or property damage for incidents occurring in or about the Leased Premises or Building caused in any way by the acts or omissions of Landlord, its agents, employees, contractors, or invitees.

When the claim is caused by the joint negligence or willful misconduct of Landlord and Tenant or Landlord and a third party unrelated to Landlord, except Landlord's agents, employees, or invitees, Landlord's duty to defend, indemnify, and hold Tenant harmless shall be in proportion to Landlord's allocable share of the joint negligence or willful misconduct.

- 7.6. Tenant's Insurance. At all times commencing on the Commencement Date, Tenant shall carry and maintain, at Tenant's sole cost and expense:
- Premises and its appurtenances, including property damage on an occurrence basis with limits of not less than Five Million Dollars (\$5,000,000.00) combined single limit insuring Tenant against any liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all areas appurtenant thereto and naming Landlord as an additional insured. The limit of said insurance shall not, however, limit the liability of the Tenant hereunder. Tenant may carry said insurance under a blanket policy provided an endorsement naming Landlord as an additional insured is attached thereto.
- (b) Professional liability insurance in such form and amount as Tenant deems reasonably necessary.
- (c) Workers' compensation insurance, as required by the State of Tennessee and in amounts as may be required by applicable statute, and employer's liability coverage of not less than Five Hundred Thousand Dollars (\$500,000) per occurrence.
- (d) Business interruption or loss of income insurance in an amount not less than twelve (12) months of Tenant's income and expenses.
- (e) Before any repairs, alterations, additions, improvements, or construction are undertaken by or on behalf of Tenant, Tenant shall carry and maintain, at its expense, or Tenant shall require any contractor performing work on the Leased Premises to carry and maintain, at no expense to Landlord, in addition to Workers' Compensation Insurance, All Risk

Builder's Risk Insurance in the amount of the full replacement cost of any alterations, additions or improvements and Commercial General Liability Insurance (including, without limitation, Contractor's Liability coverage, Contractual Liability coverage, Completed Operations coverage, and Automobile Liability coverage) written on an occurrence basis with a minimum combined single limit of Five Million Dollars (\$5,000,000.00) and adding "Landlord hereunder (or any successor thereto), and its respective members, principals, beneficiaries, partners, officers, directors, employees, agents and any Mortgagee(s)", and other designees of Landlord as the interest of such designees appear, as additional insureds (collectively referred to as the "Additional Insureds").

Any company writing any insurance which Tenant is required to (f) maintain or cause to be maintained pursuant to the terms of this Lease (all such insurance as well as any other insurance pertaining to the Leased Premises or the operation of Tenant's business therein being referred to as "Tenant's Insurance"), must have an A.M. Best rating of "A XII" or better and be licensed and qualified to do business in the state in which the Leased Premises are located. All policies evidencing Tenant's Insurance (except for workers' compensation and professional liability insurance) must specify Tenant as named insured and the Additional Insureds as additional insureds. Provided that the coverage afforded Landlord and any designees of Landlord is not reduced or otherwise adversely affected, all of Tenant's Insurance may be carried under a blanket policy, but on a per location basis, covering the Leased Premises and any other of Tenant's locations. In the event of the payment of any loss, Landlord shall be paid first by the insurance company for Landlord's loss. Tenant shall, no later than ten (10) days following the Commencement Date, and on each anniversary thereof during the Term, provide written requests to each company writing any policy of insurance required to be maintained by Tenant hereunder to contain an endorsement requiring the insurer(s) to provide Landlord with at least thirty (30) days' prior written notice of any change, cancellation, termination, or lapse of said insurance, failing which, Tenant shall itself provide such notice to Landlord. Copies of such requests shall concurrently be furnished to Landlord. Tenant shall be solely responsible for payment of premiums for all of Tenant's Insurance. Tenant shall deliver to Landlord at least fifteen (15) days prior to the time Tenant's Insurance is first required to be carried by Tenant, and upon renewals at least fifteen (15) days prior to the expiration of any such insurance coverage, certificates evidencing all policies procured by Tenant in compliance with its obligations under this Lease, each in a form reasonably satisfactory to Landlord. The limits of Tenant's Insurance do not in any manner limit Tenant's liability under this Lease.

Premises which will (1) violate the terms of any of Landlord's or Tenant's insurance policies; (2) prevent Landlord or Tenant from obtaining policies of insurance acceptable to Landlord or any mortgagees. If an increase in any insurance premiums paid by Landlord is caused by Tenant's use of the Leased Premises in a manner other than as set forth in Section 1.6, or if Tenant vacates the Leased Premises and causes an increase in such premiums, then Tenant shall pay as Additional Rent the amount of such increase to Landlord. If Tenant fails to obtain the insurance coverage required by this Lease, Landlord may, at its option, obtain such insurance for Tenant, and Tenant shall pay, as Additional Rent, the cost of all premiums thereon and all of Landlord's costs associated therewith.

ARTICLE 8. CONDEMNATION

- **8.1.** Substantial Taking. If all or a substantial part of the Leased Premises are taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere with the use of the Leased Premises for the purpose for which it is then being used, this Lease shall terminate and the rent shall be abated during the unexpired portion of this Lease effective on the date physical possession is taken by the condemning authority. Tenant shall have no claim to the condemnation award or proceeds in lieu thereof.
- 8.2. Partial Taking. If a portion of the Leased Premises shall be taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain or by purchase in lieu thereof, and this Lease is not terminated as provided in Section 8.1 above, Landlord shall at Landlord's sole risk and expense, restore and reconstruct the Building and other improvements on the Leased Premises to the extent necessary to make it reasonably tenantable. The cost of Landlord's obligations hereunder shall be limited to the net proceeds of the condemnation award allocable to the Leased Premises that is actually received and retained by Landlord. The rent payable under this Lease during the unexpired portion of the term shall be adjusted to such an extent as may be fair and reasonable under the circumstances. Tenant shall have no claim to the condemnation award or proceeds in lieu thereof.

ARTICLE 9. ASSIGNMENT OR SUBLEASE

- 9.1. Landlord Assignment. Landlord shall have the right to sell, transfer or assign, in whole or in part, its rights and obligations under this Lease and in the Project. Any such sale, transfer or assignment shall operate to release Landlord from any and all liabilities under this Lease arising after the date of such sale, assignment or transfer.
- 9.2. Tenant Assignment. Tenant shall not assign, in whole or in part, this Lease, or allow it to be assigned, in whole or in part, by operation of law or otherwise (including without limitation by transfer of a majority interest of stock, merger, or dissolution, which transfer of majority interest of stock, merger or dissolution shall be deemed an assignment) or mortgage or pledge the same, or sublet the Leased Premises, in whole or in part (all of the foregoing being referred to collectively as a "Transfer"), without the prior written consent of Landlord, and in no event shall any such Transfer ever release Tenant from any obligation or liability hereunder. No assignee, transferee or subtenant of the Leased Premises or any portion thereof.
- 9.3. Conditions of Assignment. If Tenant desires Landlord's consent to a Transfer, it shall so notify Landlord at least thirty (30) days in advance of the date on which Tenant desires to make such assignment or sublease. Tenant shall provide Landlord with a copy of the proposed assignment or sublease and such information as Landlord might request concerning the proposed subtenant, assignee or transferee ("Transferee") to allow Landlord to make informed judgments as to the financial condition, reputation, operations and general desirability of the proposed Transferee.

Landlord shall not unreasonably withhold, condition or delay its consent to any proposed Transfer. Provided that Tenant is not then in default under this Lease beyond any applicable cure period, Tenant shall have the one-time right during the Term to assign this Lease to Baptist Memorial Health Care Corporation, a Tennessee not-for profit corporation, or a controlled affiliate of Baptist Memorial Health Care Corporation, subject to Landlord's approval based on the criteria set forth in the following paragraph. In no event shall Tenant or any Transferee violate any exclusive use granted to any other tenant in the Project as of the date of this Lease or any proposed assignment by Tenant hereunder.

Without limitation as to other reasonable grounds for withholding consent, Landlord and Tenant agree that it shall be reasonable under this Lease and under any applicable law for Landlord to withhold consent to any proposed Transfer where one or more of the following apply: (a) Transferee is of a character or reputation or engaged in a business which is not consistent with the quality of the Building or would be a significantly less prestigious occupant of the Building than Tenant, (b) Transferee intends to use the Leased Premises for a use other than the Permitted Use described in Section 1.6 or other than another medical office use, or for purposes which are not permitted under the Lease, (c) Transferee's proposed use of the Leased Premises would require an excessive number of parking spaces for motor vehicles or would otherwise create traffic congestion and/or parking problems at the Project, (d) Transferee is either a governmental agency or instrumentality thereof, (e) Transferee is not a person of reasonable financial worth and/or financial stability in light of the responsibilities to be undertaken in connection with the Transfer on the date Landlord's consent to the Transfer is requested, (f) the proposed Transfer would cause a violation of another lease for space in the Building or would give another occupant of the Building a right to cancel its lease, (g) the terms of the proposed Transfer would allow the Transferee to exercise a right of renewal, right of expansion, right of first offer, or other similar right held by Tenant (or will allow the Transferee to occupy space leased by Tenant pursuant to any such right), (h) either the proposed Transferee, or any person or entity which directly or indirectly controls, is controlled by, or is under common control with, the proposed Transferee, (x) occupies space in the Building at the time of the request for consent, or (y) is negotiating with Landlord to lease space in the Building at such time, or (z) has negotiated with Landlord during the twelve (12) month period immediately preceding the request for the proposed Transfer, (i) the Transferee does not intend to occupy the entire Leased Premises or conduct its business therefrom for a substantial portion of the term of the Transfer, or (j) the proposed Transferee does not have a net worth (not including goodwill as an asset) computed in accordance with generally accepted accounting principles ("Net Worth") at least equal to the greater of (A) the Net Worth of Tenant immediately prior to the Transfer, or (B) the Net Worth of Tenant on the date of this Lease. Within ten (10) days after Landlord's receipt of Tenant's request for consent to the proposed Transfer and all required information concerning the proposed Transferee, Landlord shall have the following options: (1) cancel this Lease as to the Leased Premises or portion thereof involved in the proposed Transfer; (2) consent to the proposed Transfer, and, if the rent due and payable by Transferee under any such permitted Transfer (or a combination of the rent payable under such Transfer plus any bonus or any other consideration or any payment incident thereto) exceeds the rent payable under this Lease for such space, Tenant shall pay to Landlord all such excess rent and other excess consideration within ten (10) days following receipt thereof by Tenant; or (3) refuse, to consent to the proposed Transfer, which refusal shall be deemed to have been exercised unless Landlord gives Tenant written notice providing otherwise. Upon the occurrence and continuance of an event of default, if all or any part of the Leased Premises have been transferred pursuant to a Transfer to which Landlord consented, Landlord, in addition to any other remedies provided by this Lease or provided by law, may, at its option, collect directly from the Transferee all rents becoming due to Tenant by reason of the Transfer. Any collection directly by Landlord from the Transferee shall not be construed to constitute a novation or a release of Tenant or any guarantor from the further performance of its obligations under this Lease. Tenant shall pay to Landlord a non-refundable fee of One Thousand Five Hundred and No/100 Dollars (\$1,500) to defray the administrative costs associated with any proposed transfer or assignment hereunder. In addition, Tenant shall pay within five (5) days of demand for payment therefor all professional fees (including, without limitation, attorneys', accountants', architects', engineers' and consultants fees) and expenses incurred by Landlord or its manager in connection with the review of Tenant's proposed Transfer and in the preparation and/or review of any documentation required by the proposed Transfer. The professional fees and expenses incurred as described herein will be due and payable whether or not Landlord consents to the proposed Transfer as requested by Tenant.

- Subordination. Tenant accepts this Lease subject and subordinate to any recorded 9.4. mortgage or deed of trust lien presently existing or hereafter created upon the Building or Project and to all existing recorded restrictions, covenants, easements and agreements with respect to the Building or Project. Landlord is hereby irrevocably vested with full power and authority to subordinate Tenant's interest under this Lease to any mortgage or deed of trust lien hereafter placed on the Leased Premises, and Tenant agrees upon demand to execute additional instruments subordinating this Lease as Landlord may require. If the interests of Landlord under this Lease shall be transferred by reason of foreclosure or other proceedings for enforcement of any mortgage or deed of trust lien on the Leased Premises, Tenant shall be bound to the transferee (sometimes called the "Purchaser") at the option of the Purchaser, under the terms, covenants and conditions of this Lease for the balance of the term remaining, including any extensions or renewals, with the same force and effect as if the Purchaser were Landlord under this Lease, and, if requested by the Purchaser, Tenant agrees to attorn to the Purchaser, including the mortgagee under any such mortgage if it be the Purchaser, as its Landlord. The foregoing notwithstanding, Landlord shall use commercially reasonable efforts to cause any present or future holder of any mortgage or deed of trust encumbering the Building or Project to enter into a commercially reasonable subordination, non-disturbance, and attornment agreement with Tenant which will provide that Tenant's occupancy under this Lease shall not be disturbed so long as no event of default under this Lease by Tenant has occurred.
- 9.5. Estoppel Certificates. Tenant agrees to furnish, from time to time, within ten (10) business days after receipt of a request from Landlord or Landlord's mortgagee, a statement certifying, if applicable, the following: Tenant is in possession of the Leased Premises; the Leased Premises are acceptable; the Lease is in full force and effect; the Lease is unmodified; Tenant claims no present charge, lien, or claim of offset against rent; the rent is paid for the current month, but is not prepaid for more than one (1) month and will not be prepaid for more than one (1) month in advance; there is no existing default by reason of some act or omission by Landlord; and such other matters as may be reasonably required by Landlord or Landlord's mortgagee. Tenant's failure to deliver such statement, in addition to being a default under this Lease, shall be deemed to establish conclusively that this Lease is in full force and effect except as declared by Landlord, that Landlord is not in default of any of its obligations under this Lease, and that Landlord has not received more than one month's rent in advance.

ARTICLE 10. LIENS

ARTICLE 11. DEFAULT AND REMEDIES

- 11.1. Default by Tenant. The following shall be deemed to be events of default by Tenant under this Lease: (1) Tenant shall fail to pay when due any installment of rent or any other payment required pursuant to this Lease within five days when due (provided that this five-day grace period may only be used once in any consecutive 12-month period during the Term); (2) Tenant shall abandon any substantial portion of the Leased Premises; (3) Tenant shall fail to comply with any term, provision or covenant of this Lease, other than the payment of rent, and the failure is not cured within thirty (30) after written notice to Tenant (provided however, if such failure reasonably cannot be cured within 30 days the length of time for such cure shall be extended as reasonably required, but in any event not to exceed ninety (90) days after written notice to Tenant); (4) Tenant shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law (provided that Tenant shall have 60 days to dismiss any involuntary bankruptcy petition) or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all of the assets of Tenant, or Tenant shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors; or (5) Tenant shall do or permit to be done any act which results in a lien being filed against the Leased Premises or the Building and/or Project of which the Leased Premises are a part and such lien is not released with thirty (30) days.
- 11.2. Remedies for Tenant's Default. Upon the occurrence of any event of default set forth in this Lease, Landlord shall have the option to pursue any one or more of the remedies set forth herein, after providing Tenant with notice of default and a reasonable opportunity to cure, if required under Section 11.1. All of the remedies of Landlord shall be cumulative with each other and all other remedies available at law or in equity. The exercise of any right by Landlord shall not relieve Tenant from the obligation to make any rental payments or to fulfill all covenants required by this Lease. (1) Landlord may enter upon and take possession of the Leased Premises, by force or otherwise, and lock out, expel or remove Tenant and any other person who may be occupying all or any part of the Leased Premises without being liable for any claim for damages, use and enjoy the Leased Premises or relet the Leased Premises on behalf of Tenant and receive the rent directly by reason of the reletting. Tenant agrees to pay Landlord on demand any deficiency that may arise by reason of any reletting of the Leased Premises; further, Tenant agrees to reimburse Landlord for reasonable expenditures made by it in order to relet the Leased Premises, including, but not limited to, remodeling and repair costs. (2) Landlord may enter upon the Leased Premises, by force or otherwise, without being liable for any claim for damages, and do whatever Tenant is obligated to do under the terms of this Lease. Tenant agrees to reimburse Landlord on demand for reasonable expenses which Landlord may incur in effecting compliance with Tenant's obligations under this Lease; further, Tenant agrees that Landlord shall not be liable for any damages resulting to Tenant from effecting compliance with Tenant's obligations under this Lease caused by the negligence of Landlord or otherwise. (3) Landlord may terminate this Lease, in which event Tenant shall immediately surrender the Leased Premises to Landlord, and if Tenant fails to surrender the Leased Premises, Landlord may, without prejudice to any other remedy which it may have for possession or

arrearages in rent, enter upon and take possession of the Leased Premises in accordance with applicable Laws. Upon termination of Tenant's right of possession or upon termination of the Lease, Tenant throughout the remaining Term will pay Landlord, no later than the last day of each month during the Term, the then-current excess, if any, of the sum of the unpaid rentals and costs to Landlord resulting from such default by Tenant, over the proceeds received by Landlord from reletting, if any. Landlord shall use reasonable efforts to lease the Leased Premises on terms acceptable to Landlord. Landlord will be the sole judge as to whether or not a proposed tenant is suitable and acceptable. Any excess rent or sums received from renting the Leased Premises by Landlord as a result of Tenant's default will remain the sole property of Landlord. In addition to all other damages, Tenant will also pay to Landlord its "Cost of Reletting" which includes, but is not limited to, all reasonable costs and expenses incurred by Landlord for any repairs, maintenance, changes, alterations and improvements to the Leased Premises (whether to prevent damage or to prepare the Leased Premises for reletting), brokerage commissions, advertising costs, attorneys' fees, economic incentives given to a replacement tenant to enter into a lease, and the cost of collecting rent from replacement tenants. Notwithstanding anything contained in this Lease to the contrary, this Lease may be terminated by Landlord only by mailing or delivering written notice of such termination to Tenant, and no other act or omission of Landlord shall be construed as a termination of this Lease.

ARTICLE 12. DEFINITIONS

- 12.1. Abandon. "Abandon" means the vacating of all or a substantial portion of the Leased Premises by Tenant, whether or not Tenant is in default of the rental payments due under this Lease.
- 12.2. Act of God or Force Majeure. An "act of God" or "force majeure" is defined for purposes of this Lease as strikes, lockouts, sitdowns, material or labor restrictions by any governmental authority, unusual transportation delays, riots, floods, washouts, explosions, earthquakes, fire, storms, weather (including wet grounds or inclement weather which prevents construction), acts of the public enemy, wars, insurrections and any other cause not reasonably within the control of Landlord.
- 12.3. Building or Project. "Building" or "Project" as used in this Lease means the Building and/or Project described in Section 1.2, including the Leased Premises, infrastructure, improvements, and the land upon which the Building or Project is situated.
- 12.4. Commencement Date. "Commencement Date" shall be the date set forth in Section 1.3 and shall not be delayed due to either the existence of Punch List items or a Tenant Delay. The Commencement Date shall constitute the commencement of the Term of this Lease for all purposes, whether or not Tenant has actually taken possession.

ARTICLE 13. MISCELLANEOUS

13.1. Waiver. Failure of Landlord to declare an event of default immediately upon its occurrence, or delay in taking any action in connection with an event of default, shall not constitute a

waiver of the default, but Landlord shall have the right to declare the default at any time and take such action as is lawful or authorized under this Lease. Pursuit of any one or more of the remedies set forth in Article 11 above shall not preclude pursuit of any one or more of the other remedies provided elsewhere in this Lease or provided by law, nor shall pursuit of any remedy constitute forfeiture or waiver of any rent or damages accruing to Landlord by reason of the violation of any of the terms, provisions or covenants of this Lease. Failure by Landlord to enforce one or more of the remedies provided upon an event of default shall not be deemed or construed to constitute a waiver of the default or of any other violation or breach of any of the terms, provisions and covenants contained in this Lease. No entry by Landlord of the Leased Premises shall be deemed to absolve or discharge Tenant from liability hereunder.

- 13.2. Act of God. Landlord shall not be required to perform any covenant or obligation in this Lease, or be liable in damages to Tenant, so long as the performance or non-performance of the covenant or obligation is delayed, caused or prevented by an act of God, force majeure or by Tenant.
- 13.3. Attorney's Fees. In the event Tenant defaults in the performance of any of the terms, covenants, agreements or conditions contained in this Lease and Landlord places in the hands of an attorney the enforcement of all or any part of this Lease, the collection of any rent due or to become due or recovery of the possession of the Leased Premises, Tenant agrees to pay Landlord's costs of collection, including reasonable attorney's fees for the services of the attorney, whether suit is actually filed or not.
- 13.4. Successors. Subject to the restriction set forth in Section 9.2, this Lease shall be binding upon and inure to the benefit of Landlord and Tenant and their respective, successors and assigns. It is hereby covenanted and agreed that in the event of a sale, transfer or assignment of the Building, Project or Leased Premises by Landlord, this Lease nevertheless shall remain unimpaired and in full force and effect, and Tenant hereunder agrees to attorn to the successor of Landlord's interest under this Lease and such successor shall be the Landlord hereunder only for any and all liabilities under this Lease arising after the date of such sale, assignment or transfer.
- 13.5. Rent Tax. If applicable in the jurisdiction where the Leased Premises are situated, Tenant shall pay and be liable for all rental, sales and use taxes or other similar taxes, if any, levied or imposed by any city, state, county or other governmental body having authority, such payments to be in addition to all other payments required to be paid to Landlord by Tenant under the terms of this Lease. Any such payment shall be paid concurrently with the payment of the rent, additional rent, Operating Expenses or other charge upon which the tax is based as set forth above.
- 13.6. Captions. The captions appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of any Section.
- 13.7. Notice. All rent and other payments required to be made by Tenant shall be payable to Landlord at the address set forth in Section 1.5, or at any other address within the United States as Landlord may specify from time to time by written notice. All payments required to be made by Landlord to Tenant shall be payable to Tenant at the address set forth in Section 1.5, or at any other address within the United States as Tenant may specify from time to time by written notice. Any notice or document required or permitted to be delivered by the terms of this Lease shall be (a)

deemed to be delivered (whether or not actually received) two days after being deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, or (b) deemed to be delivered when hand-delivered to the intended addressee or delivered to the intended addressee by nationally recognized overnight courier service, addressed to either party at the respective addresses set forth in Section 1.5, or at any other address within the United States as Landlord or Tenant may specify from time to time by written notice. In no event shall notice by facsimile transmission be proper notice under the terms of this Lease.

- 13.8. Submission of Lease. Submission of this Lease to Tenant for signature does not constitute a reservation of space or an option to lease. This Lease is not effective until execution by and delivery to both Landlord and Tenant.
- 13.9. Severability. If any provision of this Lease or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Lease and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
- 13.10. Landlord's Liability. If Landlord shall be in default under this Lease and, if as a consequence of such default, Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the right, title and interest of Landlord in the Building as the same may then be encumbered and neither Landlord nor any person or entity comprising Landlord shall be liable for any deficiency. In no event shall Tenant have the right to levy execution against any property of Landlord nor any person or entity comprising Landlord other than its interest in the Project as herein expressly provided.
- 13.11. Indemnity. Landlord agrees to indemnify and hold harmless Tenant from and against any liability or claim, whether meritorious or not, arising with respect to any broker whose claim arises by, through or on behalf of Landlord. Tenant agrees to indemnify and hold harmless Landlord from and against any liability or claim, whether meritorious or not, arising with respect to any broker whose claim arises by, through or on behalf of Tenant.
- 13.12. Financials. At Landlord's request from time to time (but no more than twice in any given calendar year during the Term, unless an event of default has occurred and is continuing, in which case such limit shall not apply) Tenant shall furnish Landlord with true and complete copies of its most recent annual and quarterly financial statements prepared by Tenant or Tenant's accountants and any other financial information or summaries that Tenant typically provides to its lenders or shareholders. If the financial statements are not prepared by certified public accountants, Tenant's chief financial officer shall certify to Landlord that such financial statements are true, correct, and complete as of the date thereof.
- 13.13. Arbitration. Any dispute, claim or controversy arising out of or relating in any manner to the Tenant Improvements, as described in Section 6.1 hereinabove, shall be determined by arbitration in Memphis, Tennessee, before such arbitrator as may be agreed upon in writing by Landlord and Tenant. The arbitration shall be administered by the arbitrator in accordance the Commercial Arbitration Rules of the American Arbitration Association (including the Optional Rules for Emergency Measures of Protection). Judgment on the award rendered by the arbitrator

may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The arbitrator may, in the award, allocate all or part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party.

- 13.14. Short Form Lease. This Lease shall not be recorded, but the parties agree, at the request of either of them, to execute a Short Form Lease for recording, containing the name of the parties, the legal description, and the term of the Lease.
- 13.15. Brokerage. Tenant warrants and represents that it has had no dealings with any broker in connection with the negotiation or execution of this Lease other than Tenant's Broker, Foster Realty and Landlord's Broker, Ford Jarratt Realty and Development Co., Inc. Landlord's Broker represents Landlord's interests in connection with this transaction and shall be paid by Landlord for its services pursuant to a separate, written agreement fully executed by Landlord's Broker and Landlord prior to full execution of this Lease. Tenant's Broker represents Tenant's interests in connection with this transaction and shall be paid by Landlord for its services pursuant to a separate, written agreement fully executed by Tenant's Broker and Landlord prior to full execution of this Lease. Other than Foster Realty, Landlord will not be responsible for, and Tenant will indemnify, defend, and hold Landlord harmless from and against, any brokerage or leasing commission or finder's fee claimed by any party arising by, through or under Tenant in connection with this Lease.

ARTICLE 14. AMENDMENT AND LIMITATION OF WARRANTIES

- 14.1. Entire Agreement. IT IS EXPRESSLY AGREED BY TENANT, AS A MATERIAL CONSIDERATION FOR THE EXECUTION OF THIS LEASE, THAT THIS LEASE, WITH THE SPECIFIC REFERENCES TO WRITTEN EXTRINSIC DOCUMENTS, IS THE ENTIRE AGREEMENT OF THE PARTIES; THAT THERE ARE, AND WERE, NO VERBAL REPRESENTATIONS, WARRANTIES, UNDERSTANDINGS, STIPULATIONS, AGREEMENTS OR PROMISES PERTAINING TO THIS LEASE OR TO THE EXPRESSLY MENTIONED WRITTEN EXTRINSIC DOCUMENTS NOT INCORPORATED IN WRITING IN THIS LEASE.
- 14.2. Amendment. THIS LEASE MAY NOT BE ALTERED, WAIVED, AMENDED OR EXTENDED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY LANDLORD AND TENANT.
- 14.3. Limitation of Warranties. LANDLORD AND TENANT EXPRESSLY AGREE THAT THERE ARE AND SHALL BE NO IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THOSE EXPRESSLY SET FORTH IN THIS LEASE.

ARTICLE 15. OTHER PROVISIONS

- 15.1. Rooftop Equipment. Tenant may install and maintain, at its sole cost and expense, during the initial term of this Lease and any extension or renewal thereof cellular communications equipment and chillers for MRI equipment on the roof of the Building (the "Roof Equipment") at such location as may be approved in writing by Landlord. Tenant may use the Roof Equipment in connection with the operation of its business, as permitted by Section 1.6 of this Lease. Tenant shall submit to Landlord for its written approval (which approval shall not be unreasonably withheld) and for the approval of the City of Germantown, Tennessee (the "City"), detailed plans and specifications for the Roof Equipment showing its proposed size, location, design and screening. After the written approval of Landlord and the City have been received, the Roof Equipment may be installed and maintained strictly in accordance with such plans and specifications, at Tenant's sole cost and expense, by a contractor selected by Tenant and approved in writing by Landlord, which approval shall not be unreasonably withheld. Under no circumstances shall the Roof Equipment penetrate the roof of the Building, impair the structural integrity of the roof of the Building, invalidate any roof warranty, interfere with the Building or its systems, constitute a nuisance, interfere with any roof uses granted to others, or violate any applicable laws, ordinances, regulations or restrictions. The Roof Equipment must be properly screened in order that it is not visible from the exterior of the Building or the perimeter of the Project. Landlord makes no representations or warranties whatsoever regarding whether the installation and maintenance of the Roof Equipment is permitted by applicable laws, ordinances, regulations and restrictions. Tenant shall bear all costs and expenses of maintaining and repairing the Roof Equipment. Tenant shall be responsible for any death, personal injury or property damage caused by the Roof Equipment and shall indemnify and hold harmless Landlord from any and all such liabilities, including, but not limited to, attorneys' fees and expenses. Tenant shall maintain such insurance with respect to the Roof Equipment as may be reasonably required by Landlord. Upon expiration, assignment, transfer and/or termination of this Lease and, if requested by Landlord, Tenant shall, at its sole cost and expense, cause the Roof Equipment to be removed by a contractor approved in writing by Landlord (which approval shall not be unreasonably withheld), and Tenant shall repair, at Tenant's sole expense, any damage resulting from removal of the Roof Equipment.
- 15.2. Right of First Refusal Space. Landlord grants to Tenant a one-time right of first refusal on any adjacent and contiguous space to the Leased Premises on the following terms:
- (1) Upon Landlord's receipt of an acceptable third party offer ("Third Party Offer") to lease any space in the Building which is adjacent and contiguous to the Leased Premises, Landlord shall offer, in writing, such adjacent and contiguous space the Tenant on the same terms and conditions as contained in the Third Party Offer.
- (2) Upon Tenant's receipt of the Landlord's written offer, Tenant shall have fifteen business (15) days to accept or reject, in writing to Landlord, the Landlord's written offer on the same terms and conditions as contained in the Third Party Offer.

- (3) Landlord's failure to receive Tenant's written acceptance or rejection as required above shall constitute Tenant's rejection of Landlord's offer and Landlord shall be permitted to lease such space to the third party in accordance with the terms of the Third Party Offer.
- 15.3. Renewal Option. If, at the end of the primary term of this Lease or at the end of the first Renewal Term (as applicable), Tenant is not in default in any of the terms, conditions or covenants of this Lease after any required notice and expiration of any applicable cure period and Tenant remains in occupancy of the entire Leased Premises, Tenant, but not any assignee or subtenant of Tenant, is hereby granted an option to renew this Lease for two (2) additional terms of sixty (60) months each (each a "Renewal Term") upon the same terms and conditions contained in this Lease, including payment of additional rent, with the following exceptions:
- (1) The exercise of a Renewal Term will contain no further renewal options unless specifically provided herein or expressly granted by Landlord in writing; and
- (2) The monthly Base Rent for the first year of a Renewal Term shall be an amount equal to one hundred two percent (102%) of the monthly Base Rent for the preceding year of this Lease and the monthly Base Rent for each succeeding year of a Renewal Term shall be an amount equal to one hundred two percent (102%) of the monthly Base Rent for the immediately preceding year. Landlord shall provide such tenant finish allowance as reasonably necessary to permit Tenant to update the paint and carpet within the Leased Premises prior to the commencement of any Renewal Term, in each case consistent with the standards of owners of similar Class A multitenant medical buildings located in the Wolf River Corridor in Memphis, Tennessee.

Tenant may exercise a Renewal Option by written notice of exercise given to Landlord no later than one hundred eighty (180) days prior to the expiration date of the primary term of this Lease or a Renewal Term. Failure of Tenant to give to Landlord written notice of the exercise of the Renewal Option no later than one hundred eighty (180) days prior to the expiration of the primary term of this Lease or a Renewal Term shall automatically terminate the Renewal Option pursuant to this Section 15.3.

- 15.4. Parking. While Tenant is occupying the Leased Premises and is not in default, Tenant shall have the right in common with other tenants to use the parking spaces in the Building's parking facilities, subject to any reasonable parking rules and regulations promulgated by Landlord from time to time. Landlord shall designate for the sole use and benefit of Tenant and its customers and invitees four (4) reserved parking spaces for Tenant at the location set forth on the site plan attached as Exhibit D. Subject to regulatory requirements, Landlord shall further provide for Tenant a mutually agreed upon location on the parking facilities for temporary parking of Tenant's exterior mobile imaging vehicle in the event Tenant requires excess or additional capacity for its business conducted within the Leased Premises. To the extent Landlord requires additional paving or utility connections for the mobile imaging vehicle, Tenant shall reimburse Landlord the reasonable costs thereof and at termination or expiration of this Lease, Tenant shall be financially responsible for any costs incurred by Landlord in the removal or any additional paving.
- 15.5. Exclusivity. While Tenant (and not any Transferee of Tenant) is occupying the entire Leased Premises, and is not in default of any term or condition under this Lease beyond any

applicable cure period, Landlord agrees to not lease any part of the Project to another person, firm, or entity, whose primary business is or will be medical imaging utilizing CT or MRI technology. Tenant acknowledges and agrees that other tenants of the Project may now or in the future have, or require, ancillary uses of imaging technology in connection with their primary businesses, and Tenant agrees that such ancillary uses of imaging technology by other tenants of the Project shall not be deemed a violation of this Section 15.5.

- 15.6. Prohibited Uses. While Tenant is occupying the Leased Premises, Landlord shall not lease or permit the sublease of any part of the Project for any of the following activities: Church or place of worship, school, adult entertainment (as that term, or any substantially similar term, is now or hereafter defined in the applicable zoning and/or land use ordinances or regulations), massage parlor, off-track betting parlor, any public or private nuisance, any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness, any obnoxious odor, any noxious, toxic, caustic, or corrosive fuel or gas (except, however, that during initial and any subsequent development of the Project, such materials may be used or temporarily stored on the Property in connection with construction thereon, provided that such use and storage is strictly in accordance with applicable environmental laws and any other applicable laws), any unusual fire, explosive, or other damaging or dangerous hazard, a labor camp, temporary employment office or labor union facility, any fire or bankruptcy sales or auction house operation, tavern, cocktail lounge or nightclub, pawn shop, undertaking establishment, or any other use which is not allowed under any present or future zoning or land use statute, ordinance or regulation applicable to the Project.
- 15.7. Condition Precedent. Notwithstanding mutual execution of this Lease, Landlord grants to Tenant a one hundred twenty (120) day period commencing on the date of mutual execution hereof ("Contingency Period") to obtain a Certificate of Need ("CON") from the State of Tennessee to permit Tenant's business in the Leased Premises. Tenant agrees to promptly apply for and diligently pursue approval of the CON. During the Contingency Period Tenant shall pay Five Thousand and No/100 Dollars (\$5,000.00) on the day of execution of this Lease and on the same day of each month during the Contingency Period . In the event Tenant procures the CON, then this condition precedent will be considered satisfied and the payments made by Tenant to Landlord during the Contingency Period shall be credited to the Base Rent first due under this Lease. In the event Tenant does not procure the CON during the Contingency Period, Tenant may, at its election, terminate this Lease by written notice to Landlord, and in such event, the monthly payments made by Tenant during the Contingency Period shall be forfeited by Tenant, and Tenant shall pay on demand to Landlord, Landlord's verifiable out of pocket costs incurred regarding changes to the Building design and construction to accommodate Tenant's use, architectural costs and legal costs.
- 15.8. Entire Agreement. No oral statements or prior written material not specifically incorporated herein shall be of any force or effect. Tenant agrees that in entering into this Lease and accepting the Leased Premises, it relies solely upon the representations and agreements contained in this Lease, the exhibits attached hereto and the written agreements, if any, executed contemporaneously herewith. This Lease, including the Exhibits which are attached hereto and a part hereof, constitutes the entire agreement of the parties and shall in no way be conditioned, modified or supplemented except by a written agreement executed by both parties.

[SIGNATURE PAGE TO FOLLOW]

	Lease Agreement is executed and, except as otherwise all be effective, as of the day of		
LANDLORD:	TENANT:		
CYPRESS REALTY HOLDINGS COMPANY II, LLC, a Delaware limited liability company	WEST TENNESSEE IMAGING, LLC a Tennessee limited liability company		
By: Price D. Ford, Sr. Chief Manager	By: Cannon King Chief Manager		

STATE OF TENNESSEE COUNTY OF SHELBY)	9.7		
Before me, a Notary Publication on the basis of satisfactor Chief Manager of Cypress Realt the within named bargainor, and the foregoing instrument for the liability company by himself as	rice D. Ford, Sr. ry evidence), an y Holdings Com that he as such to purposes there	, with whom I and who upon oat apany II, LLC, and Chief Manager bein contained by	m personally acquai th acknowledged hi Delaware limited lia being authorized so	nted (or proved mself to be the bility company, to do, executed
WITNESS my hand and 2014.	Official Seal at	t office this	day of	
		No	tary Public	
My Commission Expires:				
STATE OF TENNESSEE COUNTY OF SHELBY BEFORE ME, the under commissioned and qualified, p acquainted (or proved to me acknowledged himself to be the bargainor, a Tennessee limited I so to do, executed the foregoing of the company himself as such WITNESS my hand and 2014.	on the basis Chief Manager iability compan instrument for to officer.	ared Cannon K of satisfactory of West Tenness y, and that he as the purposes the	Ting, with whom I evidence) and whose Imaging, LLC, the such officer, being rein contained, by s	am personally ho, upon oath, he within named duly authorized
My Commission Expires:	×		otary Public	

SCHEDULE 3.3

OFFICE RULES AND REGULATIONS

- 1. Landlord agrees to furnish Tenant two keys without charge. Additional keys will be furnished at a nominal charge. Tenant shall not change locks or install additional locks on doors without prior written consent of Landlord. Tenant shall not make or cause to be made duplicates of keys procured from Landlord without prior approval of Landlord. All keys to Leased Premises shall be surrendered to Landlord upon termination of this Lease.
- 2. Tenant will refer all contractors, contractor's representatives and installation technicians rendering any service on or to the Leased Premises for Tenant to Landlord for Landlord's approval before performance of any contractual service. Tenant's contractors and installation technicians shall comply with Landlord's rules and regulations pertaining to construction and installation. This provision shall apply to all work performed on or about the Leased Premises or Project, including installation of telephones, telegraph equipment, electrical devices and attachments and installations of any nature affecting floors, walls, woodwork, trim, windows, ceilings and equipment or any other physical portion of the Leased Premises or Project.
- 3. Tenant shall not at any time occupy any part of the Leased Premises or Project as sleeping or lodging quarters.
- 4. Tenant shall not place, install or operate on the Leased Premises or in any part of the Building any stove without written consent of Landlord.
- 5. Landlord will not be responsible for lost or stolen personal property, equipment, money or jewelry from the Leased Premises or the Project regardless of whether such loss occurs when the area is locked against entry or not.
- No dogs, cats, fowl, or other animals (other than service animals) shall be brought into or kept in the Building.
- 7. Employees of Landlord shall not receive or carry messages for or to any Tenant or other person or contract with or render free or paid services to any Tenant or to any of Tenant's agents, employees or invitees.
- None of the parking, plaza, recreation or lawn areas, entries, passages, doors, elevators, hallways or stairways shall be blocked or obstructed or any rubbish, litter, trash, or material of any nature placed, emptied or thrown into these areas or such area used by Tenant's agents, employees or invitees at any time for purposes inconsistent with their designation by Landlord.
- 9. The water closets and other water fixtures shall not be used for any purpose other than those for which they were constructed, and any damage resulting to them from misuse or by the

- defacing or injury of any part of the Building shall be borne by the person who shall occasion it. No person shall waste water by interfering with the faucets or otherwise.
- 10. No person shall disturb occupants of the Building by the use of any radios, record players, tape recorders, musical instruments, the making of unseemly noises or any unreasonable use.
- 11. Nothing shall be thrown out of the windows of the Building or down the stairways or other passages.
- 12. Tenant and its employees, agents and invitees shall park their vehicles only in those parking areas designated by Landlord. If requested by Landlord, Tenant shall furnish Landlord with state automobile license numbers of Tenant's vehicles and its employees' vehicles within five (5) days after taking possession of the Leased Premises and shall notify Landlord of any changes within five (5) days after such change occurs. Tenant shall not leave any vehicle in a state of disrepair on the Leased Premises or Project. If Tenant or its employees, agents or invitees park their vehicles in areas other than the designated parking areas or leave any vehicle in a state of disrepair, Landlord, after giving written notice to Tenant of such violation, shall have the right to remove such vehicles at Tenant's expense.
- Parking in a parking garage or area shall be in compliance with all parking rules and regulations including any sticker or other identification system established by Landlord. No termination of parking privileges or removal of impoundment of a vehicle shall create any liability on Landlord or be deemed to interfere with Tenant's right to possession of its Leased Premises. Vehicles must be parked entirely within the stall lines and all directional signs, arrows and posted speed limits must be observed. Parking is prohibited in areas not striped for parking, in aisles, where "No Parking" signs are posted, on ramps, in cross hatched areas, and in other areas as may be designated by Landlord. Parking stickers or other forms of identification supplied by Landlord shall remain the property of Landlord and not the property of Tenant and are not transferable. Every person is required to park and lock his vehicle. All responsibility for damage to vehicles or persons is assumed by the owner of the vehicle or its driver.
- 14. Movement in or out of the Building of furniture or office supplies and equipment, or dispatch or receipt by Tenant of any merchandise or materials which requires use of elevators or stairways, or movement through the Building entrances or lobby, shall be restricted to hours designated by Landlord. All such movement shall be under supervision of Landlord and carried out in the manner agreed between Tenant and Landlord by prearrangement before performance. Such prearrangement will include determination by Landlord of time, method, and routing of movement and limitations imposed by safety or other concerns which may prohibit any article, equipment or any other item from being brought into the Building. Tenant assumes, and shall indemnify Landlord against, all risks and claims of damage to persons and properties arising in connection with any said movement.
- 15. Landlord shall not be liable for any damages from the stoppage of elevators for necessary or desirable repairs or improvements or delays of any sort or duration in connection with the elevator service.

- 16. Tenant shall not lay floor covering within the Leased Premises without written approval of the Landlord. The use of cement or other similar adhesive materials not easily removed with water is expressly prohibited. Landlord requires the use of carpet protectors at all desk areas in order to maintain the carpet in good condition and prevent abnormal wear.
- 17. Tenant agrees to cooperate and assist Landlord in the prevention of canvassing, soliciting and peddling within the Building or Project.
- Landlord reserves the right to exclude from the Building or Project, between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and at all hours on Saturday, Sunday and legal holidays, all persons who are not known to the Building or Project security personnel and who do not present a pass to the Building signed by the Tenant. Each Tenant shall be responsible for all persons for whom he supplies a pass.
- 19. It is Landlord's desire to maintain in the Building or Project the highest standard of dignity and good taste consistent with comfort and convenience for Tenants. Any action or condition not meeting this high standard should be reported directly to Landlord. Your cooperation will be mutually beneficial and sincerely appreciated. Landlord reserves the right to make such other and further reasonable rules and regulations as in its judgment may from time to time be necessary, for the safety, care and cleanliness of the Leased Premises and for the preservation of good order therein.
- 20. The Building and Project have been designated as non-Smoking and Tenant shall police its employees, vendors, and guests.

EXHIBIT A-1

<u>Leased Premises – Floor Plan</u>

EXHIBIT A-2

Real Property Description

EXHIBIT B

Landlord Work Exhibit

This Exhibit supplements the Office Lease Agreement ("Lease") to which this Exhibit is attached and, together with the Lease, governs the construction of the Initial Improvements to the Leased Premises. All capitalized terms appearing in this Exhibit shall have the same meaning as those appearing in the Lease, except as expressly modified herein.

1. Initial Improvements.

- a. The design and construction of the improvements shown in the Final Plans defined below (the "Initial Improvements") shall be at the expense of Tenant except to the extent of the Improvement Allowance defined below.
- b. The cost of the Initial Improvements shall include all "hard" construction costs (e.g., materials) and related "soft" costs (e.g., architectural fees). Landlord waives any and all construction management fees regarding the Initial Improvements. The total amount of the hard and soft construction costs is referred to herein as the "Improvement Costs."
- c. "Improvement Allowance" shall mean an allowance of \$35.00 per square foot of rentable area of Leased Premises to be provided by Landlord as set forth in the Improvement Allowance Section below. "Improvement Allowance" shall mean the lesser of (a) the amount of money required to complete the construction of the Leased Premises in accordance with the space plan, scope of construction, and materials to be used in connection with such construction, or (b) the amount of money required to complete the construction of the Initial Improvements in accordance with this Exhibit. Improvement Costs in excess of the Improvement Allowance shall be the responsibility of Tenant and shall be paid by Tenant within ten (10) days of receipt of an invoice therefore.

2. Tenant Plans.

- a. Landlord and Tenant shall cause to be prepared by Jack Freeman & Associates, and delivered to Landlord and Tenant no later than _____ (____) days after full execution of this Lease the following proposed drawings for the Initial Improvements ("Tenant Plans"):
 - 1. architectural drawings (consisting of floor construction plan [including slab re-enforcement for heavy equipment], removable exterior wall glass panels, ceiling lighting and layout, power and telephone plan);
 - 2. mechanical drawings (consisting of HVAC, electrical, telephone, and plumbing); and

- finish schedule (consisting of wall finishes, floor finishes, and miscellaneous details).
- b. Within ten (10) days after Landlord receives the Tenant Plans, Landlord and Tenant shall approve the Tenant Plans or provide comments regarding any objections to the Tenant Plans. Landlord and Tenant shall then diligently revise the Tenant Plans to address all comments. Thereafter, these Landlord-approved and Tenant-approved Tenant Plans shall be known as the "Final Plans."
- c. Based on the Final Plans, Landlord shall promptly provide Tenant with cost estimates and construction bids for the Initial Improvements from three (3) reputable contractors selected by Landlord or a single contractor selected by mutual agreement in advance of the bidding process. Landlord and Tenant shall jointly review and approve or direct Landlord to make certain changes, deletions, or additions and to rebid the same. Landlord shall cause the rebidding of the Final Plans in accordance with Tenant's directives and shall submit the revised bid information to Tenant for Tenant's review and approval, which shall not be unreasonably withheld, conditioned or delayed. Within five (5) days of receipt thereof, Tenant shall review all cost estimates and construction bid information and provide Landlord with Tenant's approval thereof, including any final corrections and amendments, if any.
- d. The Final Plans shall comply with all applicable Laws. Neither review nor approval by Landlord of the Final Plans shall constitute a representation or warranty by Landlord that such plans either (1) are complete or suitable for their intended purpose, or (2) comply with applicable Laws, it being expressly agreed by Tenant that Landlord assumes no responsibility or liability whatsoever to Tenant or to any other person or entity for such completeness, suitability, or compliance. Tenant shall not without Landlord's prior written approval make any changes to the Final Plans, except that immaterial changes may be made without Landlord's prior approval, provided that Tenant provides Landlord with prior written notice of any such change.

3. Construction of Initial Improvements.

- a. Upon the full execution of the Lease Agreement and the approval by both parties of the Final Plans, Landlord shall proceed to construct the Initial Improvements in a good and workmanlike manner using new materials in accordance with the Final Plans, all applicable codes, ordinances and laws and the contractor bid accepted by Tenant and Landlord.
- b. If Tenant desires to change the Final Plans, Tenant shall, at its expense, provide to Landlord plans and specifications for such change(s). All such plans and specifications shall be subject to Landlord's written approval, which will not be unreasonably withheld, conditioned or delayed.
- c. If Tenant requests Landlord to perform additional work to the Leased Premises outside the scope of the Final Plans, then such additional work shall be performed by

Landlord at Tenant's expense. Prior to commencing any such additional work requested by Tenant, Landlord will procure from the contractor and submission to Tenant written estimates of the cost of any such work. If Tenant fails to approve any such estimate within ten (10) days, then the same shall be deemed disapproved in all respects by Tenant, and Landlord shall not be authorized to proceed thereon.

- d. If Tenant fails to supply to Landlord any of the information required under Section 2 above within twenty (20) days after the dates so specified, then Landlord may, at its option, declare an event of default under the Lease and exercise any of Landlord's remedies for an event of default thereunder, including terminating the Lease.
- Upon Substantial Completion (defined below), Landlord will assign to Tenant, on a e. nonexclusive basis, all warranties available from the contractors, subcontractors, suppliers, manufacturers, and materialmen for construction of the Initial "Substantial Completion" shall mean the date the applicable Improvements. certificate of occupancy is issued with respect to the Initial Improvements. Tenant's sole and exclusive remedy for any defects in materials and/or workmanship shall be for the repair of such defects, or the replacement of the portion of the Initial Improvements affected by such defects, under the aforementioned warranties, and Landlord shall not be responsible for any defect of any nature in the Initial Improvements. Landlord makes no warranties, expressed or implied, including but not limited to implied warranties of merchantability and fitness for a particular purpose, in connection with the Initial Improvements. Tenant's sole remedy for breach of any applicable warranty shall be the remedy set forth in this Section. Tenant agrees that no other remedy, including without limitation incidental or consequential damages for lost profits, injury to person or property, or any other incidental or consequential loss, shall be available to Tenant.
- f. Prior to and during construction of the Initial Improvements, Tenant's architects, vendors, and other duly authorized agents shall have the right to enter the Leased Premises for purposes of inspection, making measurements, and installing system furniture (after any floor covering that is part of the Initial Improvements has been installed), phone equipment, and telecommunications cabling, provided, upon the request of Landlord, each such agent presents Landlord with evidence of insurance reasonably satisfactory to Landlord.
- g. Upon Substantial Completion, Tenant shall provide Landlord with a punch list of items requiring completion and/or correction with regard to the Initial Improvements ("Punch List"). Landlord shall complete the Punch List as soon as reasonably practicable. Landlord shall own the Initial Improvements as part of the Building. Upon Substantial Completion, the Initial Improvements shall be deemed by Tenant to be satisfactorily completed except to the extent noted in the Punch List.

4. Selection of Contractor.

Landlord, acting in its sole and absolute discretion with input from Tenant, shall have the right to select the contractor for the Initial Improvements.

5. Improvement Allowance.

Landlord shall contribute the Improvement Allowance towards the Improvement Costs in accordance with the terms of this Section. All Improvement Costs incurred by Landlord shall be deducted from the Improvement Allowance, and applied by Landlord to pay the Improvement Costs, as such costs are incurred. Any unused portion of the Improvement Allowance shall be retained by Landlord. In the event the Improvement Costs exceed the amount of the Improvement Allowance, Tenant shall pay to Landlord such excess amount within ten (10) days after Tenant's receipt of invoice for same. In no event shall Landlord be obligated to expend more than the Improvement Allowance.

6. Commencement Date.

The Commencement Date of this Lease shall be determined in accordance with the terms of Section 1.3 of this Lease. Provided, however, that Substantial Completion shall be deemed to have occurred on that date which is one hundred twenty (120) days following Landlord's substantial completion of the Building shell if actual Substantial Completion of the Leased Premises is delayed beyond said one hundred twenty (120) day period due to Tenant Delay as defined in Section 7 following.

For example, if Substantial Completion actually occurs on January 16, but there were fifteen (15) days of Tenant Delay after expiration of one hundred twenty (120) days following Landlord's substantial completion of the Building shell, then Substantial Completion will be deemed to have occurred on January 1 of such year.

7. Tenant Delay.

The term "Tenant Delay" shall mean each day that actual Substantial Completion is delayed due to any of the following:

- a. Tenant's failure to respond, within reasonable time periods prescribed by Landlord, to a request for information necessary for the completion of the Tenant Plans or the Final Plans;
- b. Changes by Tenant to the Final Plans;
- c. Any interference by Tenant with the construction of the Initial Improvements; or
- d. Tenant's failure to act in good faith with respect to the construction of the Initial Improvements.

EXHIBIT C

Security Deposit Schedule

EXHIBIT D

Site Plan

B.II.E.1.a.5

FDA Letter





Public Health Service

Food and Drug Administration 10903 New Hampshire Avenue Document Control Center -- WO66-G609 Silver Spring, MD 20993-0002

March 13, 2013

Michelle Huettner Regulatory Affairs Leader GE Healthcare (GE Medical Systems, LLC) 3200 N. Grandview Blvd WAUKESHA, WI 53188

Re: K123522

Trade/Device Name: Optima MR450w Regulation Number: 21 CFR 892.1000

Regulation Name: Magnetic resonance diagnostic device

Regulatory Class: II Product Code: LNH, MOS Dated: February 11, 2013 Received: February 12, 2013

Dear Michelle Huettner:

We have reviewed your Section 510(k) premarket notification of intent to market the device referenced above and have determined the device is substantially equivalent (for the indications for use stated in the enclosure) to legally marketed predicate devices marketed in interstate commerce prior to May 28, 1976, the enactment date of the Medical Device Amendments, or to devices that have been reclassified in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (Act) that do not require approval of a premarket approval application (PMA). You may, therefore, market the device, subject to the general controls provisions of the Act. The general controls provisions of the Act include requirements for annual registration, listing of devices, good manufacturing practice, labeling, and prohibitions against misbranding and adulteration. Please note: CDRH does not evaluate information related to contract liability warranties. We remind you, however, that device labeling must be truthful and not misleading.

If your device is classified (see above) into either class II (Special Controls) or class III (PMA), it may be subject to additional controls. Existing major regulations affecting your device can be found in the Code of Federal Regulations, Title 21, Parts 800 to 898. In addition, FDA may publish further announcements concerning your device in the Federal Register.

Please be advised that FDA's issuance of a substantial equivalence determination does not mean that FDA has made a determination that your device complies with other requirements of the Act or any Federal statutes and regulations administered by other Federal agencies. You must comply with all the Act's requirements, including, but not limited to: registration and listing (21 CFR Part 807); labeling (21 CFR Part 801); medical device reporting (reporting of medical device-related adverse events) (21 CFR 803); good manufacturing practice requirements as set forth in the quality systems (QS) regulation (21 CFR Part 820); and if applicable, the electronic product radiation control provisions (Sections 531-542 of the Act); 21 CFR 1000-1050.

If you desire specific advice for your device on our labeling regulation (21 CFR Part 801), please go to http://www.fda.gov/AboutFDA/CentersOffices/CDRH/CDRHOffices/ucm115809.htm for the Center for Devices and Radiological Health's (CDRH's) Office of Compliance. Also, please note the regulation entitled, "Misbranding by reference to premarket notification" (21CFR Part 807.97). For questions regarding the reporting of adverse events under the MDR regulation (21 CFR Part 803), please go to

http://www.fda.gov/MedicalDevices/Safety/ReportaProblem/default.htm for the CDRH's Office of Surveillance and Biometrics/Division of Postmarket Surveillance.

You may obtain other general information on your responsibilities under the Act from the Division of Small Manufacturers, International and Consumer Assistance at its toll-free number (800) 638-2041 or (301) 796-7100 or at its Internet address http://www.fda.gov/MedicalDevices/ResourcesforYou/Industry/default.htm.

Sincerely yours,

Janine M. Morris

Director, Division of Radiological Health

Office of In Vitro Diagnostics and Radiological Health

Center for Devices and Radiological Health

for

Enclosure

Indications for Use

510(k) Number (if known): K123522
Device Name: Optima MR450w
Indications for Use: The Optima TM MR450w is a whole body magnetic resonance scanner designed to support high resolution, high signal-to-noise ratio, and short scan times. It is indicated for use as a diagnostic imaging device to produce axial, sagittal, coronal, and oblique images, spectroscopic images, parametric maps, and/or spectra, dynamic images of the structure and/or functions of the entire body, including, but not limited to, head, neck, TMJ, spine, breast heart, abdomen, pelvis, joints, prostate, blood vessels, and musculoskeletal regions of the body. Depending on the region of interest being imaged, contrast agents may be used.
The images produced by the Optima TM MR450w reflect the spatial distribution or molecular environment of nuclei exhibiting magnetic resonance. These images and/or spectra when interpreted by a trained physician yield information that may assist in diagnosis.
*
Prescription Use X AND/OR Over-The-Counter Use (21 CFR 801 Subpart D) (21 CFR 807 Subpart C)
(PLEASE DO NOT WRITE BELOW THIS LINE-CONTINUE ON ANOTHER PAGE IF NEEDED)
Concurrence of CDRH, Office of In Vitro Diagnostics and Radiological Health (OIR)
(Division Sign Off) Division of Radiological Health Office of In Vitro Diagnostic and Radiological Health
510(k) <u>K123522</u>
Page 1 of1

510(k) Summary

MAR 1 3 2013

In accordance with 21 CFR 807.92 the following summary of information is provided:

Date: December 10, 2012

Submitter: GE Healthcare, (GE Medical Systems, LLC)

3200 N. Grandview Blvd. Waukesha, WI 53188

Primary Contact Person: Michelle Huettner

Regulatory Affairs Leader

GE Healthcare, (GE Medical Systems, LLC)

Ph: (262) 521-6102 Fax: (262) 546-0902

Secondary Contact Person: Glen Sabin

Regulatory Affairs Director

GE Healthcare, (GE Medical Systems, LLC)

Ph: (262) 521-6848 Fax: (262) 364-2785

Device: Trade Name: Optima MR450w

Common/Usual Name: Magnetic Resonance Diagnostic Device

Classification Names: 892.1000

Product Code: LNH

Predicate Device(s): Optima MR450w (K113490)

Device Description: The 1.5 GE Optima MR450w features a superconducting

magnet operating at 1.5 Tesla. The data acquisition system accommodates up to 32 independent receive channels in various increments, and multiple independent coil elements per channel during a single acquisition series. The system uses a combination of time-varying magnetic fields (gradients) and RF transmissions to obtain information regarding the density and position of elements exhibiting magnetic resonance. The system can image in the sagittal, coronal, axial, oblique and double oblique planes, using various pulse sequences and reconstruction algorithms. The Silenz Imaging Application using the 3D Radial Pulse sequence reduces the acoustic noise that is generated during an MR examination. This application is compatible on the Optima MR450w system with GEM

K123522

Page 2 of 3

configuration. The 1.5T GE Optima MR450w is designed to conform to NEMA DICOM standards (Digital Imaging and Communications in Medicine).

Intended Use:

The OptimaTM MR450w is a whole body magnetic resonance scanner designed to support high resolution, high signal-to-noise ratio, and short scan times. It is indicated for use as a diagnostic imaging device to produce axial, sagittal, coronal, and oblique images, spectroscopic images, parametric maps, and/or spectra, dynamic images of the structures and/or functions of the entire body, including, but not limited to, head, neck, TMJ, spine, breast, heart, abdomen, pelvis, joints, prostate, blood vessels, and musculoskeletal regions of the body. Depending on the region of interest being imaged, contrast agents may be used.

The images produced by the OptimaTM MR450w reflect the spatial distribution or molecular environment of nuclei exhibiting magnetic resonance. These images and/or spectra when interpreted by a trained physician yield information that may assist in diagnosis.

Technology:

The modified Optima MR450w employs the same fundamental scientific technology as its predicate device, the Optima MR450w. It is still a whole body magnetic resonance scanner designed to support high resolution, high signal-to-noise ratio, and short scan times. The images produced with the Optima MR450w reflect the spatial distribution or molecular environment of the nuclei which exhibit magnetic resonance. The addition of the Silenz feature does not alter the overall technology of the Optima MR450w System.

<u>Determination of</u> Substantial Equivalence:

Summary of Non-Clinical Tests:

The Optima MR450w scanner with the GEM configuration and addition of the Silenz Imaging Application complies with the following voluntary standards:

- IEC 60601-1
- IEC 60601-1-1
- IEC 60601-1-2
- IEC 60601-1-4
- IEC 60601-1-6
- IEC 60601-2-33

- IEC 62304
- ISO 14971

In addition, this MR scanner is in compliance with the applicable NEMA standards, including NEMA PS3.1-3.18 for DICOM conformance.

The following quality assurance measures were applied to the development of the system:

- Risk Analysis
- Requirements Reviews
- Design Reviews
- Testing on unit level (Module verification)
- Integration testing (System verification)
- Performance testing (Verification)
- Safety testing (Verification)
- Simulated use testing (Validation)

The non-clinical tests have been summarized in the Verification testing that was completed for the Optima MR450w System with the Silenz application. The testing was completed with passing results per the pass/fail criteria defined in the test cases. This supports substantial equivalence to its predicate (Optima MR450w) because it was also developed under quality assurance Design Controls. In addition, it is in compliance to the same Standards.

Summary of Clinical Tests:

The subject of this premarket submission, Optima MR450w, did not require external clinical studies to support substantial equivalence. Internal scans were conducted as part of validation for workflow and image quality for the addition of the Silenz Imaging Application. Sample clinical images are included in this submission.

Conclusion:

GE Healthcare considers the Optima MR450w to be as safe, as effective, and performance is substantially equivalent to the predicate device.

B.II.E.2 Vendor Quotation

Quotation Number: PR6-C17593 V 2

Outpatient Imaging Affiliates LLC 104 Woodmont Blvd Ste 320 Nashville TN 37205-2257 Attn: Paul Claus 104 Woodmont Blvd # 320 Nashville TN 37205 Date: 03-11-2014

This Agreement (as defined below) is by and between the Customer and the GE Healthcare business ("GE Healthcare"), each as identified herein. GE Healthcare agrees to provide and Customer agrees to pay for the Products listed in this GE Healthcare Quotation ("Quotation"). "Agreement" is defined as this Quotation and the terms and conditions set forth in either (1) the Governing Agreement identified below or (ii) if no Governing Agreement is identified, the following documents:

1) This Quotation that identifies the Product offerings purchased or licensed by Customer;

2) The following documents, as applicable, if attached to this Quotation: (i) GE Healthcare Warranty(ies); (ii) GE Healthcare Additional Terms and Conditions; (iii) GE Healthcare Product Terms and Conditions; and (iv) GE Healthcare General Terms and Conditions.

In the event of conflict among the foregoing items, the order of precedence is as listed above.

This Quotation is subject to withdrawal by GE Healthcare at any time before acceptance. Customer accepts by signing and returning this Quotation or by otherwise providing evidence of acceptance satisfactory to GE Healthcare. Upon acceptance, this Quotation and the related terms and conditions listed above (or the Governing Agreement, if any) shall constitute the complete and final agreement of the parties relating to the Products identified in this Quotation. The parties agree that they have not relied on any oral or written terms, conditions, representations or warranties outside those expressly stated or incorporated by reference in this Agreement in making their decisions to enter into this Agreement. No agreement or understanding, oral or written, in any way purporting to modify this Agreement, whether contained in Customer's purchase order or shipping release forms, or elsewhere, shall be binding unless hereafter agreed to in writing by authorized representatives of both parties. Each party objects to any terms inconsistent with this Agreement proposed by either party unless agreed to in writing and signed by authorized representatives of both parties. Each party objects to any terms inconsistent with this Agreement proposed by either party unless agreed to in writing and signed by authorized representatives of both parties, and neither the subsequent lack of objection to any such terms, nor the delivery of the Products, shall constitute an agreement by either party to any such terms.

By signing below, each party certifies that it has not made any handwritten modifications. Manual changes or mark-ups on this Agreement (except signatures in the signature blocks and an indication in the form of payment section below) will be void.

• Terms of Delivery:

FOB Destination

• Quotation Expiration Date:

04-30-2014

Billing Terms:

80% delivery / 20% Installation

• Payment Terms:

UPON RECEIPT

• Governing Agreement:

None

Each party has caused this agreement to be signed by an authorized representative on the date set forth below. Please submit purchase orders to GE Healthcare

Please submit Purchase Orders to: General Electric Company, GE Healthcare, 3000 N. Grandview Blvd., Mail Code WT-897, Waukesha, WI 53188

GE HEALTHCARE	J Mcnatt	
	03-11-2014 Product Sales Specialist	
CUSTOMER		(b)
	Authorized Customer	Date
	Print Name and Title	
	PO #	
	Desired Equipment First Use Date	
	GE Healthcare will use reasonable ef meet Customer's desired equipment date. The actual delivery date will be agreed upon by the parties.	forts to first use mutually

INDICATE	FORM OF	PAYMENT	:			
		ential to S or other				leas
Cas	sh *	Lease	HFS Lo	an		
If financir below*:	ng please	provide r	name of fi	nance	соп	npan

Item No.	Qty	Catalog No.	Description
1	1	S7024AJ	Optima MR450w 1.5T MR System - EX Platform
			The Optima MR450w 1.5T MR system from GE Healthcare is designed to deliver a comfortable patient-friendly environment while also delivering uncompromised clinical performance and streamlined workflow.
			The EX platform package delivers the system electronics, operating software, imaging software, post-processing software and RF coil suite for the Optima MR450w system: • Gradient Technology • Acoustic Reduction Technology • OpTix RF Receive Technology • Volume Reconstruction Engine • Computing Platform and DICOMM • Optima MR450w Express Patient Table • Express Workflow and In-Room Operator Console • ScanTools and ES Tools • Cable Concealment Kit
			Gradient Technology: The Optima MR450w system utilizes the 34/150 gradient driver technology to deliver premium clinical performance. The gradients are non-resonant and actively shielded to minimize eddy currents. The gradients deliver high fidelity reproducibility through a digital control architecture that features a dedicated active feedback loop that regulates current errors, and a feed-forward model that matches amplifier output to gradient coil. The gradient coil and the RF body coil are integrated into a single module that is both water and air cooled. • Peak amplitude per axis: 34 mT/m • Peak slew rate per axis: 150 T/m/s • Maximum FOV: 50cm
			Acoustic Noise Reduction Technology: The Optima MR450w system features five levels of acoustic reduction technology to deliver an enhanced patient environment. Magnet interaction with the building is addressed through the vibro-acoustic dampening pad. Resonance module interaction with support structures within the magnet is addressed through design that clearly separates the components. Mass-dampened acoustic barriers further reduce noise for the patient, and ScanTools provide a user selectable gradient waveform optimization.

- Gradient coil isolation
- RF coil isolation
- Acoustic dampening material
- Vibro-acoustic isolation

Quotation Number: PR6-C17593 V 2

Item No. Qty Catalog No.

Description

· Gradient waveform optimization

OpTix RF Receive Technology: The Optima MR450w system utilizes the OpTix RF receive chain to enable high bandwidth, high channel count reception with improved SNR over conventional MR receiver designs. The MR signal is digitized within the scan room and then optically transmitted to the reconstruction engine in the electronics room increasing SNR for all volume acquisitions, independent of which surface coil is being used.

- Simultaneous channel/receivers: 16
- Receiver sampling per channel: 80 MHz
- Receiver dynamic range at 1 Hz BW: >165 dB
- Receiver resolution: up to 32 bits
- Digital quadrature demodulation

Volume Reconstruction Engine: The Optima MR450w system features a powerful volume reconstruction engine with onboard memory and local raw data storage to support and maintain simultaneous data acquisition and reconstruction under the most demanding applications. VRE uses 64-bit computing, delivering high acquisition memory and fast performance. Parallel processing and high speed interconnects provide scalable memory and throughput. The acquisition to disk feature automatically expands the memory per the demands of the application.

- 6,500 2D FFTs/second 256x256 full FOV
- 16GB DDR3 RAM memory
- 292GB disk subsystem capacity

Computing Platform and DICOM: The Optima MR450w system computing platform is designed for efficiency and built upon a parallel, multiprocessor design that delivers the simultaneity and speed needed for advanced clinical operation. Productivity, efficiency and streamlined data management are assured through simultaneous scanning, reconstruction, filming, archiving, networking and post-processing. The scan control keyboard features intercom speaker, microphone, volume controls, start scan, pause scan, stop scan and table advance to iso-center controls. Please refer to the Optima MR450w product data sheet for greater detail.

- Single tower configuration
- 24" flat panel LCD widescreen
- 1920 x 1200 resolution
- 8GB DDR3 RAM memory
- 146GB system disk subsystem
- DVD interchange

Description

The Optima MR450w system generates MR Image, Secondary Capture, Structured Report, and Gray Scale Softcopy Presentation State DICOM objects. The DICOM networking supports both send and query retrieve as well as send with storage commit to integrate with PACS archive. Additionally, the Optima MR450w system supports the CT and PET image objects for display allowing the user to refer to previous exams. Please refer to the DICOM Compliance Statement for Optima MR450w for further details.

Optima MR450w Express Patient Table: GE's fully detachable Express Patient Table incorporates the Liberty 2.0 Docking System to improve safety, exam efficiency, and patient comfort.

Express Patient Table Safety: Easily docked and undocked by a single operator, and simple to move in and out of the exam room for patient transport and preparation. These features can be vital in instances where multiple patient transfers can negatively impact patient care or when emergency extraction is required.

Express Patient Table Exam efficiency: In addition to being fully detachable, the Express patient table can prepare patients for an exam outside of the scan room, thus reducing the necessary steps before starting the acquisition. Surface coil positioning, IV poles, arm boards, support pads and blankets are easily setup in advance of entering the exam room. With an additional second table, the next patient can be prepared while the current patient is undergoing an examination, thus minimizing exam room time between scans.

The Express Patient Table offers head- or feet first imaging for most anatomies. Additionally, feet-first positioning facilitates run-off studies and set-up for claustrophobic patients.

- Maximum patient weight for scanning: 500 lbs
- Patient table drive: Automated, power driven vertical & longitudinal
- Longitudinal speed: 30 cm/sec (fast) and 0.5 cm/sec (slow)
- Total cradle length: 211 cm
- Scannable range: 205 cm

The Optima MR450w system enables complete control of protocols for simple prescription, archiving, searching, and sharing. Protocols are organized into two libraries: GE authored and Site Authored. In addition, ProtoCopy enables a complete exam protocol, from either a library or previous exam, to be shared with a mouse click, and Protocol Notes allows customized notes to be saved with the protocol parameters. The Modality Worklist provides an automated method of linking exam and protocol information for a patient directly from a DICOM Worklist server.

Description

The Workflow Manager controls the execution of scan prescription, acquisition, processing, viewing and networking and may automate these steps, when requested by the user, through the selection of Linking and AutoScan. Auto Coil Prescription will automatically select the optimum subset of elements for scanning based on the prescribed FOV once the landmark has

been set, and AutoStart will automatically start the first acquisition as soon as the technologist exits the magnet room. In addition, AutoVoice ensures that consistent and repeatable instructions are delivered to the patient, and Auto Calibration will automatically acquire a calibration scan for ASSET and/or PURE when needed.

Processing steps are automatically completed with Inline Processing once the data have been reconstructed and the images saved into the database. For certain tasks, the user must accept the results or complete additional steps prior to saving the images. These automatic Inline Processing steps can be saved into the Protocol Library.

Inline Viewing allows the user to conveniently view, compare, and analyze images from the Scan Desktop by selecting the desired series from the Workflow Manager.

ScanTools and EX Tools for Optima MR450w comprise a comprehensive package of pulse sequences, core applications, imaging options and post-processing capability optimized for 1.5T performance. Please refer to the Optima MR450w product data sheet for detailed descriptions.

- Spin Echo and Fast-Spin Echo suites: SE, FSE, FSE XL, Fast Recovery FSE, FSE Inversion Recovery, 3D FSE, Single-Shot FSE, Single-Shot FSE IR.
- T1 FLAIR and T2 FLAIR CNS imaging.
- Gradient Echo suite: 2D and 3D GRE, 2D and 3D Fast GRE, 2D and 3D Spoiled PGR, 2D and 3D Fast SPGR.
- 2D and 3D Dual Gradient Echo body imaging.
- SPECIAL spectral-spatial, inversion-based fat suppression for 3D FGRE sequences.
- Echo Planar Imaging suite: SE-based EPI, GRE-based EPI, Single-Shot EPI, Multi-Shot EPI, Multi-Phase EPI, FLAIR EPI.
- Diffusion-Weighted EPI imaging with b-values up to 10,000 s/mm2.
- FIESTA steady-state imaging includes 2D FIESTA cardiac imaging, 2D FatSat FIESTA body imaging, 3D FIESTA Neuro imaging, 3D FatSat FIESTA coronary imaging.
- PROPELLER 3.0 motion-insensitive imaging with T1 FLAIR, T2, T2 FLAIR or PD-weighted contrast - enabled in all scan planes.
- PROPELLER 3.0 DWI FSE-based diffusion weighted imaging with radial k-space

Description

filling.

- 3D Cube 2.0 high-resolution FSE-based imaging with T1, T2, T2 FLAIR or PD-weighted contrast.
- 3D BRAVO high-resolution SPGR-based T1-weighted brain imaging.
- ReadyBrain automated scan prescription for brain exams.
- 2D and 3D MERGE multi-echo GRE-based CNS imaging.
- 3D COSMIC high-resolution GRE-based cervical spine imaging.
- 3D LAVA single breath-hold, high-resolution SPGR-based T1-weighted liver imaging with SPECIAL fat suppression.
- Time-of-Flight MRA Suite: 2D TOF, 2D Gated TOF, 3D TOF and Enhanced 3D TOF.
- Phase Contrast MRA Suite: 2D PC, 3D PC, Cine PC.
- SmartPrep automated bolus detection.
- Fluoro-Trigger MRA real time bolus monitoring with interactive triggering.
- QuickSTEP automated multi-station acquisition.
- iDrive Pro real time interactive imaging.
- Double/Triple IR black-blood cardiac imaging with/without fat suppression.
- FastCINE functional cardiac imaging with full R-wave coverage.
- 2D and 3D GradWarp automated distortion correction.
- ARC acceleration 3D data-based, auto calibrating parallel imaging technique with acceleration factors up to 3X.
- ASSET image-based parallel imaging technique with acceleration factors up to 3X.
- Cardiac gating/triggering, compensation, blood suppression, flow compensation.
- Respiratory gating/triggering, compensation.
- Pencil Beam Body Navigators track diaphragm motion to acquire data when diaphragm is within an acceptable range.
- DE Prep, IR Prep, T2 Prep.
- ZIP 1024, ZIP 512, 2X Slice ZIP, 4X Slice ZIP.
- IVI inline, interactive post-processing for vascular MRA data sets.
- Multi-Planar Volume Reformat inline, interactive post-processing for 3D volume data sets.
- FuncTool Performance advanced post processing algorithms: ADC maps, eADC maps, Negative Enhancement Integral, Positive Enhance Integral, Mean Time to Enhance, Signal Enhancement Ratio, Maximum Slope Increase, Maximum Difference Function, Correlation Coefficients, Diffusion Tensor, and 2D/3D CSI.
- MR Pasting automated integration of multi-station exams into a single image.

Description

- Image Fusion overlays multiple images from separate acquisitions on one another for enhanced visualization.
- BrainStat GVF automated calculation of parametric maps for Cerebral Blood Flow, Blood Volume, Mean Transit Time and Time to Peak signal intensity using a gamma variant fitting algorithm.
- BrainStat AIF calculation of parametric maps for Cerebral Blood Flow, Blood Volume, Mean Transit Time and Time-to-Peak signal intensity using an automated or manually specified arterial input function algorithm.
- eDWI enhanced SNR diffusion-weighted imaging for brain and liver includes Multi-B, Smart NEX, "3 in 1", and tetrahedral techniques.
- SWAN 2.0 enhanced SNR T2*-weighted susceptibility imaging multi-echo, 3D GRE-based technique.
- Diffusion Tensor imaging with up to 150 different diffusion directions enables Fractional Anisotropy maps, ADC maps, and T2-weighted TRACE maps.
- FiberTrak post-processing for the generation of Eigen-vector information from DTI data sets.
- PROBE PRESS single voxel proton brain spectroscopy using the PRESS sequence.
- IDEAL 2D FSE and 3D GRE-based fat and water separation imaging with T1, T2, and PD-weighted contrast generates water-only, fat-only, in-phase and out-of-phase images from a single scan.
- 3D LAVA Flex high resolution SPGR-based fat and water separation liver imaging with T1-weighted contrast generates water-only, fat-only, in-phase and out-of-phase images from a single breath-hold scan.
- StarMap T2* decay curve imaging using a variable echo, 3D GRE-based technique - enables gray scale and color maps of the T2* signal decay across echoes.
- Inhance 2.0 non-contrast MRA suite: Inflow IR (3D FIESTA-based), 3D Velocity (3D PC-based), 2D Inflow (2D TOF-based) and 3D DeltaFlow (3D FSE-based).
- TRICKS dynamic, high resolution 3D volume MRA eliminates the need for timing or triggering.
- Cine IR multi-TI myocardial imaging enables tissue characterization and approximation of the optimal null point for myocardium signal.
- 2D PS MDE enables delayed myocardial imaging with IR suppression. PS-MDE is not compatible with ReportCard 4.0.
- FGRE TC multi-phase myocardial imaging with reduced artifact sensitivity for viability assessment.
- BB SSFSE Single Shot FSE-based whole heart imaging with black blood contrast.

Item No.	Qty	Catalog No.	Description
2	1	S4500WE	Optima MR450w 1.5T Magnet, Gradient, RF Body Coil and Dock Collector for 16-Channel System
			To improve the patient experience and provide high image quality, no other component of an MRI system has greater impact than the magnet. The Optima MR450w system features a short, wide bore magnet that delivers a large field of view. The magnet geometry has been optimized to reduce patient anxiety by providing more space in the bore and more exams with the patient's head outside of the magnet. The 50cm field of view provides uniform image quality and can reduce exam times since fewer acquisitions may be necessary to cover large areas of anatomy. Complemented by GE's active shielding technology, the Optima MR450w has very flexible installation specifications to provide easy siting. And with zero-boil-off magnet technology, helium refills are effectively eliminated, thus reducing operating costs and maximizing uptime.
			 Manufactured by GE Healthcare. Operating field strength 1.5T (63.86 MHz). Active magnet shielding. Zero boil-off Cryogens. Magnet length 145cm. Patient Aperture 76 cm. Patient Bore Diameter 70cm. Patient Bore Length 105cm. Maximum Field of View 50 cm. Magnet Homogeneity at 47 cm x 42 cm (R x Z) volume <= 1.25. Fringe field (axial x radial). 5 Gauss = 4.0 m x 2.5 m. 1 Gauss = 6.2 m x 3.7 m.
		S (eXtreme Gradient Platform: The powerful gradient performance of the Optima MR450w system enables high resolution and fast acquisitions. The gradient platform includes the eXtreme Gradient Driver (XGD) and the optimized large field of view gradient coil. The eXtreme Gradient Drive (XGD) is housed within a single cabinet to simplify installation. Each axis is driven by a dedicated power supply and amplifier to ensure consistent performance for all image orientations. By incorporating a water-cooled architecture, this system supports continuous peak operation with a 100% duty cycle and excellent stability for both long-term serial studies and advanced applications.

tem No.	Qty	Catalog No.	Description
			 Peak Gradient Amplitude of 34 mT/m per axis. Peak Gradient Slew Rate of 150 T/m/s per axis.
	#E	***	Quiet Technology: GE has implemented Quiet Technology on critical components of the Optima MR system to reduce acoustic noise and improve the patient environment. This technology enables full use of the extreme Gradient Platform for excellent image quality, while maintaining a safe environment for the patient. The technology encompasses the gradient coil, RF body coil, and magnet mounting.
		a	The Optima MR450w Dock and Switch Collector is critical for the detachable table. The MR450w Liberty Dock provides the interface between the magnet and Express Patient table.
3	1	S7505EJ	MR450w Preinstallation Collector and Cable Concealment Kit
			 The Preinstallation Collector delivers to the site in advance of the magnet and main electronic components. This facilitates the later delivery and installation of supporting electronics. The following are the main components in the Preinstallation collector: Heat exchange cabinet for distribution of chilled water. Primary Penetration wall panel for support of the penetration cabinet. Secondary Penetration wall panel for support of gradient filters, helium cables and chilled air and water. Helium cryocooler hose kit.
			The Optima MR450w Cable Concealment Kit accommodates a wide-range of scan room ceiling heights and is designed to provide a clean-look installation by concealing the overhead cabling from view.
4	1	S4500YH	Optima MR450w Cable Configuration - A
		8	To accommodate various electronic and scan room configurations and sizes, the MR450w has preset lengths of cables and connector kits to speed system installation. This cable collection is compatible with fixed and relocatable building configurations.
5	1	M1060MA	Vibroacoustic Dampening Kit
			Material in the Vibroacoustic Dampening Kit can significantly attenuate the transmission of gradient-generated acoustic noise through the building structure to nearby areas, including adjacent rooms and floors above or below the MR suite. If this kit is applied during the installation of a new magnet, no additional service charges are necessary. However, installation of the Vibroacoustic Dampening kit under an existing magnet requires special steps. The steps to prepare the site and steps to install, such as modifications to the RF screen room, and other magnet rigging, modifications to the RF screen room, and other finishing work, are not covered in the

Item No.	Qty	Catalog No.	Description
-			pricing.
6	1	M7000WL	Main Disconnect Panel
			The Main Disconnect Panel safeguards the MR system's critical electrical components, by providing complete power distribution and emergency-off control.
7	1	M7000WT	IRD - In Room Display Controls - English
	ii		English version of the control panel for use with the seven segment digital display on the front of the MR450w magnet. The digital display shows patient landmark and scar location, scan time, and connection of patient respiratory, cardiac, and peripheral triggering devices. The control panel includes backlit buttons for easy visualization in darkened rooms. In addition, the buttons include rim-enhancing LEDs to signal which button to press for simplified workflow and ease of use.
			This hardware interface includes the ergonomically designed keyboard, two-way communication and voice command module between the technologist and patient, activation buttons for patient table control, acquisition interface to initiate the scanner, and emergency stop switch.
8	1	M1000MW	Operator's Console Table
			Wide table designed specifically for the color LCD monitor and keyboard.
9	1	M3335CB	1.5T Calibration Phantom Kit
			This 1.5T calibration kit contains a large volume shim phantom, a daily quality assurance phantom, an echo-planar calibration phantom, and the associated loader shells.
10	1	M3335CA	Calibration Kit Phantom Holder Cart
11	1	S7524DF	Essential Coil Package II - 1.5T
		ŭ.	 The Essential Coil Package II includes the following: 16-channel Head/Neck/Spine Array 8-channel Body Array 3-channel Shoulder Array Quad Extremity Coil
			The Head/Neck/Spine (HNS) Array delivers convenience without compromise. This 29-element coil serves as a high-resolution brain coil, high-density neuro-vascular array, and a multi-element spine coil in one convenient package. Designed to accommodate multi-dimensional parallel imaging in any scan plane, this coil yields

tem No.	Qty	Catalog No.	Description
			unprecedented imaging speed and superior image quality, thanks in large part to a unique element arrangement that focuses the signal over the anatomy of interest.
		e we	The 8-channel Body Array is designed for high definition MR imaging of the chest, abdomen and pelvis. This 12-element, quadrature phased-array coil provides extensive coverage, enabling multi-station anatomical and vascular imaging of the chest-abdomen or abdomen-pelvis without repositioning the coil. The array is optimized for use with ASSET acceleration for enhanced breath-hold imaging procedures.
			The 3-channel Shoulder Array offers the increased signal-to-noise characteristic of phased-array technology, along with a unique sleeve design that delivers exceptional joint-imaging capabilities. The coil provides clear definition of the shoulder joint, specifically the head of the humerus, clavicle, acromion, supraspinatus muscle and ligaments. Patient comfort pads and restraining straps are included.
			The transmit/receive design of the Quad Extremity Coil helps ensure optimal results in studies of the knee, ankle and foot. Its unique anterior extension increases the imaging volume for thorough evaluations in dorsi-flexed foot and ankle studies, covering FOVs up to 30 cm for the foot and ankle, and up to 20 cm for the knee.
12	1	M3335LZ	1.5T 8-Channel Brain Array - Invivo
			The Brain Array is designed for high-definition MR imaging of the brain. This 8-element quadrature phased array provides 24 cm of coverage, facilitating both anatomical and vascular imaging of the brain. The coil is optimized for use with ASSET acceleration for enhanced neuro imaging.
13	1	M3335LJ	1.5T 8-Channel Wrist Array - Invivo
			The 8-Channel Wrist Array generates high definition MR wrist images. The one-piece ovoid hinged design is optimal for small-FOV imaging and provides 12-cm S/I coverage. The coil can be positioned overhead or at the patient's side, vertically or horizontally. The coil is optimized for ASSET imaging to improve acquisition times.
14	1	E8912CA	GE Optima MR450w Heat Exchangers - 49kW (20 Tons)
			Cooling for your GE Healthcare MR system has never been so easy. GE Healthcare had partnered with the Glen Dimplex Group, a world leader in cooling systems, to offer heat exchangers designed to meet the needs of your Discovery MR System. Now you can look to GE Healthcare for your entire MR purchase and support.
	Э.		This heat exchanger is highly reliable and the only unit verified to perform with the new platform of GE Healthcare MR systems. As part of your integrated GE Healthcar solution, you'll work with a single contact throughout the whole installation. A Projec

Description

Manager of Installation will help with building layout, room designs, delivery and installation – every step until your system is ready to scan. Our team will work seamlessly with architects, contractors and your internal team to help ensure timely, cost-effective completion.

Once your cooling system is running, you'll get fast, highly-skilled service support managed through GE Healthcare - with the same quality and response time you expect from your MR system.

FEATURES AND BENEFITS

- Designed to provide stable fully dedicated cooling for your MR system's needs
- Water/glycol outdoor-air-cooled heat exchangers to support your highest exam volumes and your full range of diagnostic procedures
- Redundant fluid pumps with automatic switchover let you keep operating with no loss of cooling even if one pump goes down
- Quad compressor, dual tandem refrigeration circuit design saves on energy while your system smoothly transitions through the 10% to 100% heat load capacity cycles of patient scanning and idling
- Quiet operation between patient exams and overnight ideal for facilities in residential areas
- Comes with installation support, installation visits, preventative maintenance visit and 1 full year of parts and labor warranty
- Installation support includes: support through GE's Project Manager of Install, GE's Design Center, technical support from the Glen Dimplex company, two (2) installation visits
- Comprehensive and quality service rapidly delivered through our CARES service solution
- 65 gallons of 100% glycol concentrate for complete system filling and diluting
- Wall mounted remote display panel provides the ability to monitor the system's operation and indicates possible system errors
- Filter kit with flow meter helps to ensure purity of water prior to entry to the MR sustem
- Highly recommended that Vibration Isolation Spring Kit (E8911CJ) be added for systems that will be roof top mounted

SPECIFICATIONS

- Net Cooling Capacity: 49 kW / 20 Ton
- Maximum Coolant Flow: 35 gpm (132 l/m)
- Coolant Outlet Temperature: 48 F (8.9 C)

tem No.	Qty	Catalog No.	Description
			 Coolant Temp Stability: E 1.8 F (E1.0 C) Max Coolant Pressure: 70 Psi (4.8 Bar) Refrigerant: R407C Ambient Temp Range: -20 to 120 F (-30 to 50 C) Condenser Air Flow (Approx): 18,000 Cfm Tank Capacity: 100 gal (378 l) Flow Meter Range: 4-40 gpm Filters: 50 micron cartridge filters Supply Voltage: 460v / 3 phase / 60 Hz Coolant Connections: 2" NPTF Overall Size (L x W x H) 44" x 136" x 84.5"
			COMPATIBILITY:
			GE Optima MR450w 1.5T MR System NOTES:
			 Item is NON-RETURNABLE and NON-REFUNDABLE
15	1	E8803BE	Physician's Chair with Padded Arms
			Physician's chair has padded arms for comfort and comes in a charcoal gray color that blends with any environment. Chair adjusts from 16.75 in. to 21 in. (42.5 cm \times 53.3cm) and is only for use in the MR Control Room. Weighs 45 lbs.
16	1	W0100MR	7 Day MR TiP Onsite System Training
			MR Onsite Training for a new MR system
			 One 4 day onsite visit to coincide with system start-up. One 3 day onsite follow-up visit 6-8 weeks post system start up.
			During the first visit, the applications specialist will work with the medical and technical staff on system operation and patient procedures. The training produces the best results when a dedicated core group of 2-4 MR technologists complete the session with a modified patient schedule. It is suggested that key physicians are available to participate in the protocol implementation and image quality review sessions. By the end of this visit, the core group should be able to perform the routine patient procedures.
			The 3 day revisit is suggested after the staff has run the system for 6-8 weeks, however this is flexible based on the site needs. The training will focus on the intermediate and advanced functions of the system or special needs of the customer.

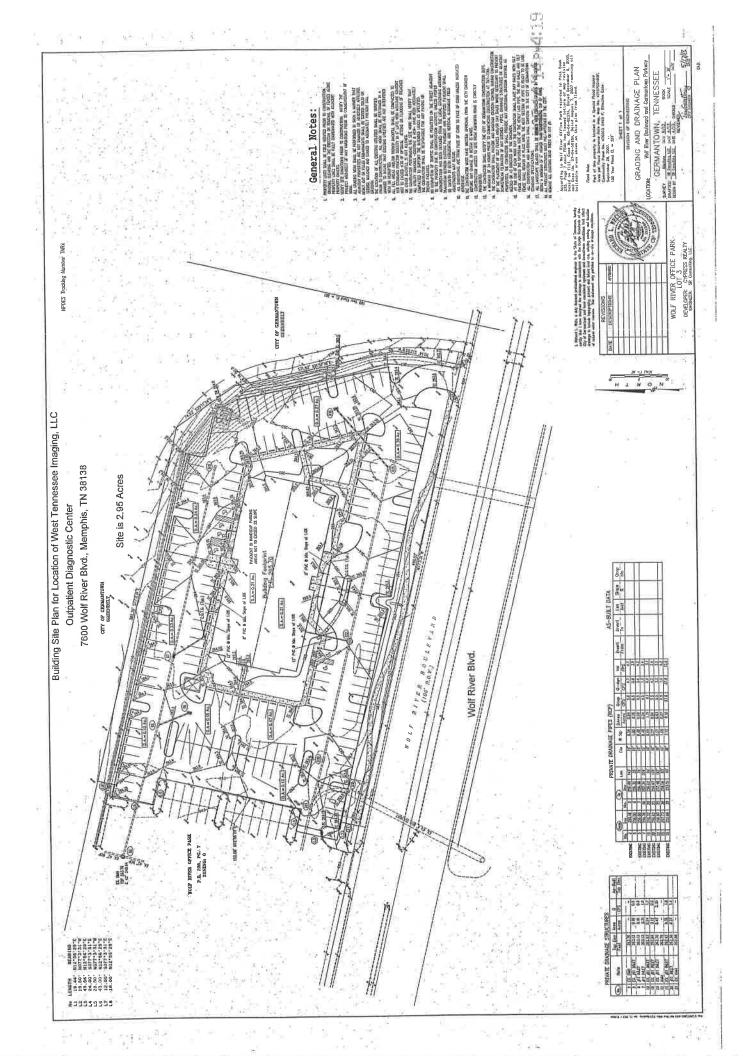
Quotation Number: PR6-C17593 V 2

Item No. Q)ty	Catalog No.		Description
			.01	The training produces the best results when the same dedicated core group of 2-4 MR technologists from the initial visit complete the session with a modified patient schedule.
			8	This training program must be scheduled and completed within 12 months after the date of product delivery.
				Quote Summaru:

Total Quote Net Selling Price (Quoted prices do not reflect state and local taxes if applicable. Total Net Selling Price Includes Trade In allowance, if applicable.)

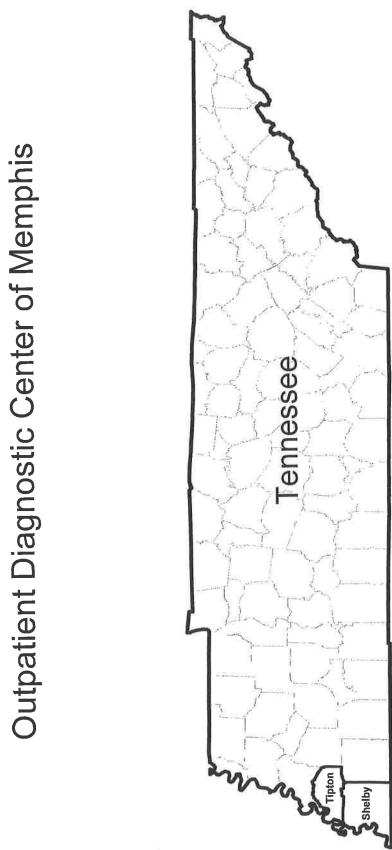
\$1,499,999.99

B. III Plot Plan



B. IV. Floor Plan

C.Need.3. Service Area Map



C.Economic Feasibility.1 Architect's Letter

JACK FREEMAN AND ASSOCIATES, P.C.

Architect and Planners

■ 311 22ND Avenue, North Nashville, Tennessee 37203 (615) 329-2424 Fax (615) 329-2161

March 11, 2014

Melanie Hill Executive Director Health Services and Development Agency Andrew Jackson Building, 9th Floor 502 Deadrick Street Nashville, TN 37243

Re:

Outpatient Diagnostic Center

Memphis, Tennessee

Dear Ms. Hill:

The proposed project will be a tenant build-out on the 1st floor of an existing building located in Germantown, Tennessee. The services provided will include MRI, CAT Scan, X-Ray and Ultrasound. Administrative and staff functions will be provided as well as medical support.

We have reviewed the construction cost of \$2,353,530.00 for the project, and find the cost to be reasonable for the described scope of work. The construction costs have considered recent market conditions and inflation projections.

We affirm to the best of our knowledge, the design intended for the construction of the referenced facility will be in accordance with the following codes and standards. This list may not be entirely inclusive, but the intent is for all applicable codes and standards, state or local to be addressed during the design process.

- AIA Guidelines for the Design and Construction of Healthcare Facilities.
- International Building Code
- International Plumbing Code
- International Mechanical Code
- National Electric Code
- International Fire Code
- NFPA Life Safety Code 101
- Rules of Tennessee Department of Health and Environment Board for Licensing Healthcare Facilities
- Americans with Disabilities Act

Please contact me if you need any further information concerning this project.

Sincerely,

JACK FREEMAN AND ASSOCIATES, P.C.

Jack W. Freeman

President

JWF/sd

JACK FREEMAN AND ASSOCIATES, P.C.

■ Architect and Planners

■ 311 22ND Avenue, North Nashville, Tennessee 37203 (615) 329-2424 Fax (615) 329-2161

March 11, 2014

Melanie Hill
Executive Director
Health Services and Development Agency
Andrew Jackson Building, 9th Floor
502 Deadrick Street
Nashville, TN 37243

Re:

Outpatient Diagnostic Center

Memphis, Tennessee

Dear Ms. Hill:

Our firm has reviewed the construction cost indicated as \$2,353,530.00 for the referenced project and find the cost to be reasonable for the described scope of work. The construction costs have considered recent market conditions and inflation projections. We also have estimated architectural and engineering fees of \$140,000.00 for the project which would include engineering services for civil, structural, HVAC, plumbing and electrical design.

Sincerely,

JACK, FREEMAN AND ASSOCIATES, P.C.

Jank W. Freeman

President

JWF/sd

C.Economic Feasibility.2. Financing Letter



Key Equipment Finance Inc. 6115 Polo Club Drive Cumming, Ga. 30040 Tel: 770-888-8114 James _V_Seiferth@key.com

February 26, 2014

Evans Smith
Director of Finance & Strategic Contracts
Outpatient Imaging Affiliates, LLC
840 Crescent Centre Drive, Suite 200
Franklin, TN 37067

RE: Financing Term Sheet proposal for diagnostic imaging equipment located in Memphis, TN.

Dear Mr. Smith:

On behalf of Key Equipment Finance Inc. ("KEF") we are pleased to present the following term sheet to finance certain capital equipment for the Customer(s) named below (the "Transaction") subject to the following terms and conditions:

Funding Source:

Key Equipment Finance Inc. NYSE: ("KEY")

Customer:

Outpatient Imaging Affiliates, LLC ("OIA" or "Customer")

Equipment Location:

7600 Wolf River Boulevard Germantown, TN 38138

Collateral:

High field MRI System, CT, Ultrasound, X-ray and fluoroscopy room.

Applicable construction leasehold improvements

(together with all additions, attachments and proceeds of the

Collateral).

Total to be Financed:

Equipment cost not to exceed \$2,520,000

Leasehold Improvements not to exceed \$2,000,000

Credit Conditions:

1. First priority perfected lien on the new equipment and related

leasehold improvements

2. Latest year-end financial statements

Term/Payment Terms:

Conditional Sales Contract: Payments will be due monthly in advance

based on the following repayment terms:

Leasehold Improvements:

Months 1 – 60 @

\$37,742.57

Equipment

Months 1 – 84 @

\$35,617.45

Closing of this transaction will take place no later than December 31, 2015.

Progress/Term Payments:

The schedule of payments, as well as all other terms of the Transaction including Hitachi's progress payment terms (down-payment/delivery payments), will be detailed in a loan and security agreement or lease agreement, promissory note or other evidence of indebtedness executed in connection with the Collateral (together with all other documents executed in connection with the Transaction, the "Funding Documents"). Maintenance, insurance, taxes and other expenses of a similar nature will be the responsibility of the Customer.

Fees:

Documentation fee of \$1,000.

This term sheet is provided for illustration purposes and is subject to underwriting procedures including review of customers financial statements, tax returns and the like. The funding of this Transaction shall be subject to federal regulatory checks, including (1) the embargoed country list published from time to time and (2) clearing Office of Foreign Assets Control (OFAC). If you have any questions about the SDN list or the embargoed country list, please contact OFAC directly at 1 (800) 540-6322.

The Funding Documents will be in the standard form customarily required by KEF and will include additional terms and conditions not discussed above (*provided*, the failure by KEF and Customer to mutually agree to such documents shall not be deemed to be a breach of this term sheet by either KEF or Customer). At the date of closing the Transaction(s), the collateral, financial condition and credit standing of Customer, and all features of this Transaction, will be as represented to KEF at the time of credit approval, without material adverse change. In the event of bankruptcy or insolvency or adverse material change in the collateral or creditworthiness of Customer, this term sheet will terminate upon notice by KEF. This Term Sheet is non-assignable by Customer, and its terms shall not be disclosed by Customer except to its legal and financial advisors. This Term Sheet supersedes any prior Term Sheet, offers, or agreements, written or oral, concerning the proposed Transaction and can only be modified in writing.

Sales Tax Exemption

For us to qualify for your sales tax exemption, a valid tax exemption certificate, satisfactory in all respects to us, for the state where the Equipment will be located will be required at lease closing.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR APPLYING FOR FINANCING WITH US

To help the government fight the funding of terrorism and money laundering activities, federal law requires us to obtain, verify, and record information that identifies each customer who opens an account or applies for financing. Therefore, all new and existing customers are subject to the identity verification requirements.

When a customer applies for financing with us, we will ask for the customer's name, address and identification number, and, in the case of an individual, his or her date of birth. For business accounts, we may also obtain this information for individuals associated with the business. We may also request to see a driver's license or other identifying documents. In all cases, we are committed to protecting the privacy and identity of each of our customers.

This Term Sheet is issued in reliance upon the accuracy of all information, representations and exhibits presented by Customer to KEF and is also contingent upon the absence of any material adverse change in Customer's financial condition from the condition as it was represented to KEF at the time of credit approval.

If the terms and conditions of the Term Sheet are accepta return it to our attention.	able, please sign a copy of this le	tter, as provided below, an
We value the opportunity to do business with you and look	c forward to a long-term, mutually	y beneficial relationship.
Sincerely,		
Jim Seiferth		
Jim Seiferth Key Equipment Finance		
CC: Larry Hargrove	32	
Agreed to by:		
Outpatient Imaging Affiliates, LLC	6	
By:		
Date: , 2014		

C.Econimic Feasibility.10. Financial Statement

2013	DEC

Total Liabilities & Equity	Total Equity	EQUITY Member Contributions Member Distributions Accumulated Income/(Deficit)	Total Liabilites	LIABILITIES Trade Accounts Payable Accrued Expenses Due to Affiliate Current Portion of Long Term Debt Long Term Debt	Total Assets	ASSETS Total Cash Trade Accounts Receivable Other Current Assets - Prepaids Property & Equipment, Net Due from Affiliate
\$5,140,332	\$712,117	\$3,497,543 (2,293,444) (491,982)	4,428,215	\$114,463 964,838 26,795 636,339 2,685,780	\$5,140,332	(\$6,316) 879,452 150,971 4,116,226

2013

9.3%	Net Income Margin
\$88,007	Net Income/Loss
30,241	Depreciation & Amortization Other Non-recurring (Income) Expens
\$118,248	EBITDA
\$144,662	Total SG&A
8,887 7,425 2,911 125,439	SELLING AND ADMINISTRATIVE Sales & Marketing Outside Professional Fees Travel & Entertainment Other SG&A
\$687,988	Total Operating Expenses
316,936 109,938 87,244 10,008 53,679 56,504	DPERATING EXPENSES Salaries & Benefits Equipment Lease & Service Facility & Related Medical Supplies Management Fees Silling Fees Bad Debt Expense
\$950,898	Technical Revenue
1,130,079 (179,181)	Global Revenue .ess: Interpretation Fees
\$3,396,110 (2,266,031)	REVENUES Bross Revenue Less: Contractual Adjustments
	I

C.Contribution to the Orderly Development of Health Care.1.

Contractual Relationships

20252999ButlerSnow

411 Pain	
Absolute Solutions, LLC	_
ADIN	
Aetna	
Amerigroup	
Blue Cross Blue Shield of Tennessee (all plans)	
Care IQ	_
Champ VA	
Cigna (through MedSolutions)	_
Coast 2 Coast	
CorVel	
Coventry	
Direct Pay Provider Network	
Fed Ex Work Comp	
Fortified Provider Network	
Galway Medical Funding	
Genex	
Government Employees Health Association (GEHA)	
Great-West Healthcare (through MedSolutions)	
HealthSmart Payor Organization	
HealthSouth Corporation	
HealthSpring	
Humana	
Humana Military (Tricare)	
Imaging Network Group	
Injury Finance	
Johnston & Associates, Inc. (Occusure)	
Key Health	
MedChex	
MedFocus	
Medicaid - Arkansas	
Medicaid - Mississippi	
Medicaid - Tennessee	
Medicare - Railroad (Palmetto GBA)	
Medicare (Cahaba)	
MedSolutions	
Mississippi Physicians Care Network	
Multiple Sclerosis Association of America	
National Imaging Associates (Magellan)	
Next Imaging Medical/Select MRI	_

Occucomp	
One Call Care Diagnostics	
Ortho USA	
Preferred Health Patnership of Tennessee, Inc.	
Preferred Medical Claim Solutions	
Premier Comp Solutions	
Prime Health Services	
Rockport Healthcare	
Spreemo	
Sterling Health Plans	
Tech Health	
The Reny Company	
Three Rivers Provider Network	
UMWA Health and Retirement Funds	
United Healthcare (all products)	
US Department of Labor - Black Lung	
US Department of Labor - Energy	
US Department of Labor - FECA	
US Imaging	
Windsor Health	

C.Contribution to the Orderly Development of Healthcare.7.c.

License

State of Tennessee DEPARTMENT OF HEALTH

c certify, that a license is hereby granted by the Stai

DIAGNOSTIC HEALTH CENTERS OF TENNESSEE ILLC	TENNESSEE LLC	to conduct and maintain
an Outpatient Diagnostic Center	OUTPATIENT DIAGNOSTIC CENTER OF MEMPHIS	
Proaled at 5130 STAGE ROAD, MEMPHIS		
Country of SHELBY	, Tennessee.	
This license shall eaping	MARCH 11	2015 and in subject
to the provisions of Chapter 11, Tennessee Code Annotated. This license shall not be assignable or transferable,	rde Annotated. This license shall not be	assignable or transferable,
and shall be subject to revocation at any time by the State Department of Health, for failure to comply with the laws of the State of Tennessee or the rules and regulations of the State. Department of Health issued thereunder	by the State Department of Keally let.	Critiste to complete with the
	laws of the State of Tennessee or the rules and regulations of the State. Department of Kealth issued thereunder.	Realth issued theseunder.



DIRECTOR, DIVISION OF HEALTH CARE FACILITIES

C.Contribution to the Orderly Development of Healthcare.7.d.

Survey



STATE OF TENNESSEE DEPARTMENT OF HEALTH

WEST TENNESSEE HEALTH CARE FACILITIES 2975C Highway 45 Bypass JACKSON, TENNESSEE 38301 731-984-9684

March 28, 2011

Tracy Clark, Manager Diagnostic Health of Memphis 5130 Stage Road Memphis, Tennessee 38134

RE: Health Licensure Survey 3/14/11
Fire \$afety Licensure Survey 3/14/11

We are pleased to advise you that no deficiencies were cited as a result of the licensure surveys conducted at your facility on the above dates. The enclosed forms are for your records.

Thank you for the consideration shown during this survey. If this office may be of any assistance to you, please do not hesitate to call Celia Skelley 731-984-9711.

Celei Skelley PHNC2

Celia Skelley, RN, MSN

Public Health Nurse Consultant 2

CES/bb

Enclosure

Division of Health Care Facilities (X3) DATE SURVEY STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION (X2) MULTIPLE CONSTRUCTION (X1) PROVIDER/SUPPLIER/CLIA COMPLETED IDENTIFICATION NUMBER 77 - HEALTH SOUTH DIAGNOS A. BUILDING B. WING 03/14/2011 TNPL55739 STREET ADDRESS, CITY, STATE, ZIP CODE NAME OF PROVIDER OR SUPPLIER 5130 STAGE ROAD DIAGNOSTIC HEALTH, MEMPHIS MEMPHIS, TN 38134 PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY) SUMMARY STATEMENT OF DEFICIENCIES (X5) COMPLETE (X4) ID (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION PREFIX PREFIX DATE TAG TAG G 002 G 002: 1200-8-35 No Deficiencies This Rule is . met as evidenced by. During the annual survey completed on 3/14/11, this facility was found to be in compliance with the Life Safety Code requirements of the Tennessee Department of Health, Board for Licensing Health Care Facilities, Chapter 1200-8-35, Standards for Outpatient Diagnostic Centers. Division of Health Care Facilities (X6) DATE TITLE LABORATORY DIRECTORS OR PROVIDER/SUPPLIER REPRESENTATIVES SIGNATURE If continuation sheet 1 of 1 MXXF21 STATE FORM

Division	of Health Care Fac	lities					
STATEMENT AND PLAN (T OF DEFICIENCIES OF CORRECTION	(X1) PROVIDER/SUPPLIE IDENTIFICATION NU	R/CLIA MBER:	A. BUILDING		(X3) DATE S COMPL	SURVEY ETED
		TNPL55739		B. WING		03/1	4/2011
NAME OF P	ROVIDER OR SUPPLIER				TATE, ZIP CODE		
DIAGNO	STIC HEALTH, MEMI	PHIS	5130 STA MEMPHIS	GE ROAD , TN 38134			
(X4) ID PREFIX TAG	(EACH DEFICIENC)	TEMENT OF DEFICIENCIE Y MUST BE PRECEDED BY SC IDENTIFYING INFORM	FULL	ID PREFIX TAG	(EACH CORRECT	LAN OF CORRECTION TIVE ACTION SHOULD BE SED TO THE APPROPRIATE FICIENCY)	(X5) COMPLETE DATE
G 001	1200-8-35 Initial	15 50		G 001			
	An annual survey on 3/14/11. This a	et as evidenced by: vas conducted at this gency meets all licer n outpatient diagnos	nsure			Št.	
						(00)	
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*				<u></u>			
	Health Care Facilities	VIDER/SUPPLIER REPRES	ENTATIVE'S SI	IGNATURE	TITLE		(X6) DATE
STATE FO			· · · · · · · · · · · · · · · · · · ·		DF5G11	If conti	nuation sheet 1 of

LETTERS OF SUPPORT



March 6, 2014

Outpatient Diagnostic Center of Memphis 5130 Stage Road Memphis, TN 38134

Attn: Tracy Dabaldo, Administrator

Dear Tracy:

Thank you for reaching out to One Call Care Diagnostics about your proposed move to the Germantown/Wolf River corridor. We received this news with great enthusiasm.

OCCD referred approximately 870 patients to your facility in 2013. Currently OCCD works with over 1,000 payers on a national level. Because of our national payer relationships, OCCD frequently receives referrals for the Memphis TN market from payer offices both within the Memphis area as well as neighboring states. Specific to the Memphis area, we currently receive referrals from over 50 payer offices. We strongly support this move and feel it would significantly benefit the majority of our injured workers and affiliated providers. You have our full support.

If there is anything else we can do to further assist you, please do not hesitate to ask.

Thank you and best of luck on the proposed move.

Sincerely,

Stephen P. Ellerman

Vice President Provider Development

The Injury Medical Center of Memphis 2832 Coleman Road Memphis, TN 38128 901-377-2334

February 10, 2014

Outpatient Diagnostic Center Tracy Dabaldo- Director

Letter of Support

Mrs. Dabaldo,

As requested, we are writing your facility a letter of support. We do intend to utilize your new facility and staff, if your owners decide, to relocate the Stage Road location to Wolf River Blvd. The service and quality you and staff provide is unmeasurable and we would not change due to the unsurpassed customer quality not only to us; but to our patients.

Although, the convenience of your Stage Road location is definitely advantageous for us and our personal injury patients that are referred by 1-800-411-PAIN, business needs change. Your news comes at a great time for us, as we are continuing to expand as well.

We look forward to continuing to refer our MRI patients to you and hope that your facility will add much needed other modalities such as CT, ultrasound, X-Ray and other machines and devices pertinent to the needs of the Memphis- Germantown medical community.

We would like to take the time to thank you, for your commitment, for serving our patients and we look forward to a long referral relationship to come!

Good luck to you and your staff as your business continues to grow.

Best Regards,

Kelly D. Cassriel

President



February 14, 2014

Tracy Dabaldo
Administrator, Outpatient Diagnostic Center of Memphis
5130 Stage Road
Memphis, TN 38134

Dear Ms. Dabaldo:

Please let this letter serve as documentation of support for your facility moving to the Germantown area. Our patients have received excellent service at your institution and I will continue to refer our patients for your services when you move to the Germantown area.

Again, thank you for the excellent care for our patients. Please do not hesitate to contact me if you need any additional information.

Sincerely

Jeffrey A. Dlabach, MD

JAD/qed

DD: 02/14/2014 09:48:00 Job#: 6036

DT: 02/14/2014 08:07:57 QED#s:





Attn: Tracy Daba do, Administrator
Outpatient Diagnostic Center of Memphis
5130 Stage Rd
Memphis, TN 38134
901-385-2636 (Phone)
901-385-0550 (Fax)

Dear Tracy,

It has come to the attention of Laura Lendermon, M.D. and Murray Butler, D.P.M of Lendermon

Sports Medicine in Collierville, TN that the Outpatient Diagnostic Center of Memphis is planning on
relocating and/or moving to Germantown. This is wonderful news and we are very excited at the prospect
of having your facility move closer to our office. We currently refer patients to the location on Stage Road,
however, a Germantown location would better serve our patients' needs and will most likely result in an
increase in patient referrals.

Jennifer Denham

Office Manager

Lendermon Sports Medicine

9950 Grooked Greek Dr. Collierville, TN 38017

P: 901.850.5756

F; 901.850.591

9950 Crooked Crock Orive
Collierville, Tennessee 38017
p: 901, 850, 5756 - 1: 901, 850, 5911
lendermonsportsmedicino.com



Mailing Address: 8355 Gunn Hwy Tampa, FL. 33626 P: 1-866-936-6122 F: 1-866-606-1122

February	10,	201	4
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ODC of Memphis Memphis, TN.

RE Germantown business

To whom it may doncern,

Should ODC move to Germantown from there current location it will afford the opportunity for OrthoUSA to send additional business to the facility besides what is already currently being sent on a monthly basis. At this time there is no other facility in the 200 mile radius allowing OrthoUSA to send personal injury patients from our facility to a facility for an MRI scan on a lien basis.

OrthoUSA looks forward to this move to Germantown.

GEORGE LEROE

President

2/10/14



Carl J. Siciliano, D.P.M., F.A.C.F.A.S.

Board Certified, American Board of Podiatric Surgery Member, American Podiatric Medical Association Fellow, American College of Foot and Ankle Surgeons Member, Tennessee Podiatric Medical Association Residency Trained, Podiatric Surgery

February 26, 2014

Outpatient Diagnostic Center of Memphis 5130 Stage Rd Memphis, Tennessee 38134

To Whom It May Concern:

Should the above listed facility choose to move to the Germantown area, both of our physicians would continue to refer our patients to this facility.

We appreciate the excellent working relationship we have with Outpatient Diagnostic Center of Memphis, and feel the employees do go out of their way to accommodate our patients' needs.

Yours truly,

Darrelyn (Dee) McLendon, MA/OM



State of Tennessee Health Services and Development Agency Andrew Jackson Building, 9th Floor

Andrew Jackson Building, 9th Floor 502 Deaderick Street Nashville, TN 37243

www.tn.gov/hsda

Phone: 615-741-2364

Fax: 615-741-9884

LETTER OF INTENT

The Publication of Intent is to	be published in	The Commercial Appeal	which is a newspaper
of general circulation in	Shelby	(Name of Newspaper), Tennessee, on or before	
for one day.	(County)		(Month / day) (Year)
			ncy and all interested parties, in vices and Development Agency,
West Tennessee Imaging d/l (Name of Applicant)	o/a to be determined		N/A (Facility Type-Existing)
owned by: West Tennessee Ir	naging, LLC	with an ownership type o	f <u>limited liability company</u>
and to be managed by: Outpa	atient Imaging Affiliat	es, Inc. intends to file an app	lication for a Certificate of Need
initiation of magnetic resonan acquisition of major medical e construction. The project, in c currently located at 5130 Stag	ce imaging ("MRI") s equipment (MRI). The effect, will relocate a ge Road, Memphis, T tter of Memphis will t	services at 7600 Wolf River le e project will require approxin an existing ODC, Outpatient N 38134. Upon licensing of the be relinquished and MRI ser	diagnostic center ("ODC") and Blvd., Memphis, TN 38138, and mately 8,258 square feet of new Diagnostic Center of Memphis, the proposed facility, the license vices at that location will cease. 989.
The anticipated date of filing to	ne application is:	March 14 , 20 <u></u>	<u> 14</u>
The contact person for this pro	oject is	Perry Baker (Contact Name)	CFO (Title)
who may be reached at: Our	tpatient Imaging Affili (Company Name	iates840 Cresc	ent Center Drive, Suite 200 (Address)
Franklin (City) (Signature)	TN (State)	37067 (Zip Code) 3/10/14 (Date)	615 / 550-6000 (Area Code / Phone Number) pbaker@oiarad.com (E-mail Address)
The Letter of Intent must be fill last day for filing is a Saturda this form at the following address	y, Sunday or State Ho ess: Health Services Andrew Jack 502 D	ceived between the first and coliday, filing must occur on the and Development Agency and Building, 9 th Floor Deaderick Street e, Tennessee 37243	======================================
institution wishing to oppose a Cerl Agency no later than fifteen (15) day application is originally scheduled; ar Services and Development Agency a	ificate of Need application ys before the regularly so and (B) Any other person we at or prior to the consideration	on must file a written notice with the cheduled Health Services and Deve wishing to oppose the application mation of the application by the Agendation	
HF51 (Revised 01/09/2013 - all forms pri	or to this date are obsolete)		

Error! Unknown document property name.

COPY SUPPLEMENTAL-1

West Tennessee Imaging

CN1403-008



SUPPLEMENTAL- # 1
March 26, 2014
2:50pm

March 26, 2014

Jeff Grimm HSDA Examiner Tennessee Health Services & Development Agency Andrew Jackson Building, 9th Floor 502 Deaderick Street Nashville, TN 37243

Re: West Tennessee Imagining, LLC - CN1403-008

Dear Mr. Grimm,

1. Section A, Applicant Profile Item 2 and Item 5 (name and address of contact person and management operating entity)

Your responses are noted. Please note the discrepancy of the contact's address and the zip code of the management entity with the address identified in the publication of the letter of intent and elsewhere bin the application. Please provide a revised application page correcting the name of the city and the correct zip code for these items. Revised pages 1-2 are attached as Attachment A.

2. Section A, Applicant Profile, Item 4

Discussion of the proposed organizational and business relationships among the entities is noted. Please provide the names of the members of West Tennessee Imaging, LLC whose percentage of ownership in the new LLC is in excess of 5% or greater. Please see page 5 of the application of the owners and their percentages of ownership.

The Memorandum of Understanding (MOU) between the parties for the establishment of a joint venture to be organized as a Tennessee Limited Liability Company is noted. Please identify the effective date of the execution of the proposed MOU. The effective date was October 4, 2013.

The MOU also states that Outpatient Imaging Affiliates, LLC will relinquish the license of its existing ODC at 5130 Stage Road in Memphis, TN upon a license being issued for the proposed Imaging Center at 7600 Wolf River Blvd, Memphis, TN (also noted in published LOI and in Section B.I, page 5). There is no note or mention of MRI services being discontinued nor surrender of same first approved in the certificate of need, 89-CN-172. Please also provide a letter from Outpatient Imaging Affiliates saying it will surrender the license of the ODC and its rights to provide MRI services if this application is approved.

OiA will relinquish both the license for the facility and its right to provide MRI services at that location. A letter to that effect is attached as Attachment B.

3. Section A, Applicant Profile, Item 5

Please provide a brief description of the management entity's expertise to operate this facility/service. Brief bio's outlining areas of expertise and experience of the senior management will be helpful.

Jeff Grimm March 26, 2014 Page 2

March 26, 2014 2:50pm

Please provide a list of other healthcare facilities with which the management/operating entity has affiliations and/or management contacts, both current and proposed. In your response, please identify & briefly describe the manager's participation in any certificate of need projects that may be similar to the proposed ODC, including those projects involving the development and implementation of a joint venture similar in nature and/or scope to this proposal.

Information regarding OiA's experience is attached as Attachment C.

4. Section A, Applicant Profile, Item 6

The response to this item and copy of the proposed lease agreement for the site is noted.

Please be advised that the earliest possible date for the Agency to hear your CON application is (June 2014). The Agency requires that the applicant's control of the site must be enforceable through at least an option to lease at the time the Agency hears the application. Please provide a fully executed Option to Lease that at least includes the expected term of the lease, the anticipated lease payments and an expiration date which demonstrates the applicant has a legal interest in the property beyond the time of the HSDA hearing of the application.

The executed lease is attached as Attachment D.

5. Section A, (Applicant Profile) Item 8

As noted in the applicant's letter of intent, the project involves the establishment of an ODC and the initiation of MRI services. Given the formation of a new LLC developed for this project, it appears that the applicant should also check the space next Item D. for the "Initiation of Health Care Service – MRI services" in addition to those items already checked. Please revise this page.

A revised page 3 is attached as Attachment E.

6. Section B, Project Description, Item 1

The executive summary with description of the project is noted. In addition to the information provided, additional information may be helpful. Please note the following:

The applicant states that the primary service area includes Shelby and Tipton Counties and patients may come from adjacent areas. Please identify the names of any Tennessee counties and counties of other states that will comprise the applicant LLC's secondary service area for the proposed ODC. In your response, please provide a brief description of the number of patients and MRI procedures attributed to residents of the SSA during 2013 and the number projected for the first year of the project.

Fayette County accounted for 4.83% of MRI volume in 2013 and is the secondary service area for the project. No other county in Tennessee is responsible for more than 3% of patient volume. It is expected that patient origin will remain the same for the new facility.

	2013	Year 1
Fayette County	124	134

^{*} numbers are approximate

Jeff Grimm March 26, 2014 Page 3

March 26, 2014 2:50pm

If this project is approved, does the applicant expect to receive and accept referrals from other area physicians in addition to referrals from physicians of the applicant LLC (Baptist Medical Group and Mid-South Imaging and Therapeutics)?

The applicant expects to continue to receive referrals from its existing referral sources. This is confirmed by the letters of support included in the application and the additional letters attached to these responses as Attachment F.

Please identify the key MRI modalities that will apply by quantifying the estimated MRI utilization by type, including arthrograms, for the first full year of the project. *See response to question 17*.

It appears that Medicare and TennCare/Medicaid may account for approximately 10% of the applicant's projected payor mix. Please include a brief description of the projected payor mix for the proposed ODC, with names of other major third party payors that will apply. In your response, please briefly describe the impact to the proposed payor mix resulting from the health insurance exchange/marketplace in Tennessee implemented as a result of the Affordable Care Act.

The projected payor mix is 6% Medicare, 4% TennCare/Medicaid, 61% workers compensation, 24% commercial insurance, and 5% Tricare/Champus. The top three commercial payors of the existing facility are BlueCross BlueShield of Tennessee, United, and Cigna, and this is not expected to change. The impact of the health insurance exchange/marketplace is unknown, but it is not expected to be material.

Please address the projected financial performance of the applicant LLC by briefly describing measures to be taken to ensure that the proposed ODC will be financially profitable and the expected timeframe for same.

The actual financial performance of the facility is somewhat distorted by the requirement in the Projected Data Chart to include both retirement of debt and depreciation. Equipment is depreciated over 5 years and leasehold improvements are depreciated over 7 years, even though in both categories the actual useful life is considerably longer for the assets being depreciated. A widely-used reference for financial performance is EBIDTA (earnings before interest, depreciation, taxes, and amortization). EBITDA for the facility in year 1 is projected to be \$938,000 rising to \$1,037,009 by year 4. The initial capital to open the facility will be modest, approximately \$471,000, with the fixed equipment purchased through 7-year financing and with build out of the space financed by the combination of a 5-year loan of \$2,000,000 plus a tenant improvement allowance of \$35 per square foot. The facility is projected to achieve positive cash flow in the 3rd year, and total working capital required to sustain the facility until positive cash flow is achieved is projected to be approximately \$420,000. The initial capital contribution of \$1.4 million by the members of the applicant should be more than adequate to cover initial expenses and working capital until positive cash flow is achieved.

The applicant states that the project will be financed by a combination of borrowing and cash contributions of the owners of \$1.4 million. On page 27 of the application, the applicant states that the partners will fund the entity with \$2.55 in working capital to

Jeff Grimm March 26, 2014 Page 4

March 26, 2014 2:50pm

cover the project start-up phase. Please clarify the amount that will be needed. In addition, please document same with a statement from an authorized representative who is empowered to obligate the members of the applicant LLC to the cash contributions that may be required (also applies to Section B, Economic Feasibility, Item 2).

The amount on page 27 was an error. A revised page 27 is attached as Attachment G. Letters regarding contributions from each member of WTI are attached as Attachment H.

7. Section B, Project Description, Item II.A.

The response indicates new construction of 6,986 square feet in lieu of the 8,258 square feet documented in the Square Footage (SF) chart on page 6 of the application. Please note that 8,258 SF is also the amount that would correspond to the \$2,353,530 estimated cost of new construction in the March 11, 2014 letter from the architect. Please clarify. 6,986 square feet of the new facility are the usable square feet; 8,258 square feet are the rentable square feet.

8. Section B, Project Description, Item II C. and Section C, Need, Item 1 (b)

As noted in the LOI and Project Description, the project involves the establishment of a new ODC and the initiation of MRI services. As such, please revise the response to Section B, II.C. to include a brief description of the need to provide MRI services. In addition, please add responses to Section C, Item 1(b) for the two additional certificate of need categories that apply to this project (specifically, these are criterion for both ODCs and MRI services). The criterion and standards are available on the HSDA link to www.tn.gov.

The need for the proposed MRI is established on the basis of the historical utilization of the existing MRI that will be discontinued as a result of this project. In addition, the projected utilization for the MRI requested in this application exceeds the minimum thresholds set forth in the State Health Plan

Responses for Section C, Item 1(b) are attached as Attachment I.

9. Section B, Project Description, Item 1I.D.

It appears that the existing location of the ODC operated by the manager at 5130 Stage Street in Memphis has no room for expansion and operation of CT, Ultrasound, Fluoroscopy and XRAY imaging services. Please include a brief description of the need to expand services of the proposed ODC in these modalities.

Most outpatient diagnostic centers in Tennessee provide a full spectrum of outpatient imaging, and this is consistent with the expectations of referring physicians. Referring physicians have expressed support for an expanded array of services at the new facility. A full-service ODC will make it easier and more convenient for physicians to get all outpatient imaging procedures scheduled for their patients. The addition of other outpatient imaging modalities will also enhance operating efficiencies because of ability to cross-train staff on the different modalities.

March 26, 2014 2:50pm

10. Section B, Project Description, Item 1I.E. 1.b. and Item 1I.E. 2

Please include a list of the other medical imaging equipment related to CT, Ultrasound, Fluoroscopy and XRAY services to be operated at the proposed ODC inclusive of expected cost of acquisition by purchase or lease (please specify).

A list of the other imaging equipment with the purchase price, taxes, and service is

attached as Attachment J. The purchase price includes installation.

The applicant notes that it will purchase a GE Optima wide bore 1.5 Tesla MRI unit totaling to approximately \$2.2 million, including the \$1.5 million cost of the unit documented in the vendor quote in attachment B.II.E.2. Please revise the April 30, 2014 expiration date of the quote such that the quote will be effective on the date of the hearing of the application at the earliest in June 2014.

A revised quotation is attached as Attachment K. The revised quotation expires June 20, 2014. The manufacturer will only provide quotations for a period of 90 days. The applicant will provide an updated quotation, with an expiration date that is later than the HSDA meeting at which the application will be heard, closer to the meeting date.

In addition, please also identify the individual amounts projected for installation, maintenance/service, and taxes. In your response, please address whether or not the applicant LLC may be responsible in full or part for any additional equipment taxes, such as a 2.3% tax medical equipment excise tax authorized in Section 4191 of the Internal Revenue Code effective December 31, 2012 as related to passage of the Affordable Care Act.

The medical equipment excise tax is paid by the manufacturer of the equipment; therefore, WTI is not responsible for the tax.

11. Section B, Project Description Item III.B.

According to the plot plan, the parking appears accessible to patients. However, please clarify if the parking is an improvement from the manager's existing ODC located at 5130 Stage Road in Memphis, TN.

Parking at the proposed location will be an improvement from the existing location. The existing location has room for current patients but no room for expansion. If existing equipment needed repairing or upgrading, OiA would have to bring in a mobile unit, which would take up the entire parking lot; therefore, the existing equipment could not be upgraded without shutting down operations for 90 days.

12. Section C, Need, Item 1.a. (Construction, Renovation, Expansion, and Replacement of Health Care Institutions) Item 3.a

Please clarify by providing a copy of a fully executed option to lease between the applicant LLC and the building owner/landlord for the 8,250 space planned for the proposed ODC, inclusive of the general terms of the build-out allowance available for same.

The executed lease is attached as Attachment D.

March 26, 2014 2:50pm

13. Section C, Need, Item 1 (Specific Criteria, Magnetic Resonance Imaging (1.)(a.))

As noted, please include a response to the criteria and standards for MRI and ODCs. Responses to the criteria and standards for MRI and ODCs are attached as Attachment I.

14. Section C. (Need) Item 3.

Please provide a map of the entire state of Tennessee that more clearly identifies the applicant's declared service area counties, including those counties that comprise the secondary service area of the proposed ODC. Please provide distinctive highlighting/markings to readily differentiate the two primary service area counties from the other, secondary service area counties.

A revised service area map is attached as Attachment L, including the secondary service area of Favette County.

15. Section C. (Need) Item 4 (Socio-Demographic Information of the Service Area)

Your response to this item is noted. Using population data from the Department of Health website, Division of Health Statistics, Certificate of Need enrollee data from the Bureau of TennCare, and demographic information from the US Census Bureau, please revise the table to identify data for each county in your proposed service area for the current period calendar year 2014 to 2018.

Demographic Variable/	Shelby	Tipton	Service Area Total	State of TN Total
Geographic Area				
Total Population 2014 Current Year Age 65+	108,570	8,042	116,612	981,984
Total Population 2018, Projected Year Age 65+	124,946	9,367	134,313	1,102,413
Age 65+ % Change	15.1%	16.5%	15.2%	3.7%
Age 65+ % Total	11.5%	12.6%	11.6%	3.7%
2014 Total Population	943,812	63,865	1,007,677	6,588,698
2018 Total Population	954,012	67,545	1,021,557	6,833,509
Total Population % Change	1.1%	5.8%	1.4%	3.7%
TennCare Enrollees	277,622	11,538	289,160	1,194,860
TennCare Enrollees as % of Total Population	29.4%	18.1%	28.7%	18.1%
Median Age	37.2	34.6		33

March 26, 2014 2:50pm

Median Household	46,251	51,847	Jan Salan Agai	44,140
Income				
Population %	20.2%	14%	7 L 7 MI	17.3%
Below Poverty				
Level	77			

^{*}Target Population is population that project will primarily serve. For example, nursing home, home health agency, hospice agency projects typically primarily serve the Age 65+ population; projects for the discontinuance of OB services would mainly affect Females Age 15-44; projects for child and adolescent psychiatric services will serve the Population Ages 0-19. For projects not having a specific target population use the Age 65+ population for the target population variable.

16. Section C. (Need) Item 5.

The table on pages 15-16 of the application ("Utilization of MRIs in the Service Area, 2010-2012") is noted. It appears that the utilization for the one (1) MRI unit at the Campbell Clinic-Unionville is missing (2,155 procedures in 2012). In addition, the units that are shared should be noted in the table. An example would be to identify the 1 unit housed at Baptist Rehab-Briarcrest as being shared with the MSK Group-Briarcrest. Please also add a column to identify the percentage change of the MRI utilization for each entity in the table from 2010-2012. As a suggestion, contact Alecia Craighead, Stat III, HSDA at 615-253-2782 to discuss revision of the table in the manner requested. A revised table is attached as Attachment M.

17. Section C, Need, Item 6

The utilization of the current MRI unit of the Outpatient Diagnostic Center of Memphis and the MRI unit to be located at the applicant LLC proposed ODC at 7600 Wolf River Boulevard in Memphis is noted. Please expand by identifying the breakout by primary modality or CPT code for the projected MRI utilization in years one and two of the project (note: the MRI modalities shown on page 27 of the application may suffice for this response, as appropriate). Please also compare to the utilization of the MRI unit located at the Outpatient Diagnostic Center of Memphis. In your response, please discuss the rationale for any significant change by procedure type, such as those that may result from new sources of referrals from physicians in the service area.

CPT Code	Year 1	Year 2
72148	804	818
73721	559	569
73221	437	445
72141	397	404
70551	137	140
Arthrograms	756	781

The MRI at the new facility is expected to serve patients with the same conditions as the existing unit, with the exception that the new MRI will also perform athrograms, as explained the original application. The expected arthrogram utilization is because two the radiologists who will read scans at the facility have special expertise with regard to these procedures. The applicant projects providing 756 arthrograms in year 1 and 781 in year 2.

Jeff Grimm March 26, 2014 Page 8

March 26, 2014 2:50pm

18. Section C. Economic Feasibility, Item 1 (Project Costs Chart)

As noted, please document the cost for both the medical equipment and the building lease by revising the medical equipment quote and by providing an option to lease for the 8,256 office space at the proposed Wolf River Boulevard ODC in Memphis. Please note that the agreements between the parties must be in effect on the date that the application will be heard by HSDA (June 2014 at earliest).

A revised MRI quotation is attached as Attachment K. The executed lease is attached as

Attachment D.

The 2/16/14 letter from Key Equipment Finance documents the availability of a commercial loan not to exceed \$2,520,000 for the purchase of equipment and \$2,000,000 for leasehold improvements for a total of \$4,520,000.00. Given the proposed loan, please explain why no amount is provided for the cost of financing and fees in your Project Cost Chart.

Loan fees and total interest over the course of the loan were inadvertently left off of the Project Cost Chart; however, the amount was included in the Total Project Cost. A revised Project Cost Chart is attached as Attachment N.

Per the March 11, 2014 letter from the architect, please note that the Department of Health has adopted the updated 2010 AIA Guidelines for Design and Construction of Hospital and Health Care Facilities in their review. Will build-out of the proposed ODC conform with same? Please clarify.

The build-out of the proposed ODC will conform with the 2010 AIA Guidelines.

19. Section C. Economic Feasibility, Item 2

As noted in the preceding question, the source of funding from a commercial loan not to exceed \$4,520,000.00 has been appropriately documented in the attachments to the application. However, with a total project cost identified at \$10,123,989.00 and the applicant's statements in the application, it appears that Item F. should also be indicated based upon the applicant's statements that additional funding support is available from the partners/owners (see pages 6 and 27).

Please also provide an estimate of the total funding amount that may be required to financially support the proposed project. In your response, please identify the cash contributions or working capital that may apply, inclusive of obligations for repayment, reimbursement, etc. In addition, please also provide written documentation of same from an authorized principal or representative of the applicant LLC, as appropriate.

A revised page 20 is attached as Attachment O. Letters from the members of WTI regarding contributions to the project are attached as Attachment H. Please see the response to question 6 for a further explanation of the project funding.

20. Section C, Economic Feasibility, Item 4 (Historical Data Chart)

As noted in response to Section C, Economic Feasibility, Item 9 on page 28, the applicant states that the proposed facility does not have an audited financial statement for 2013 and that the information provided in the Historical Data Chart pertains to the three ODCs that Outpatient Imaging Associates operates in Tennessee. It is unclear how the applicant LLC would have any audited financial statements for 2013 since the applicant LLC has

Jeff Grimm March 26, 2014 Page 9

March 26, 2014 2:50pm

been created as the organizational entity of the proposed Wolf River Boulevard ODC in Memphis. Please clarify.

The applicant, WTI, does not have any audited financial statements because it is a new entity. The information in the Historical Data Chart is for the OiA facility in Memphis.

In reviewing the 2013 financial statements of OIA provided in the attachment, it appears that the amounts for most of the key categories do not correspond to the amounts in the Historical Data Chart such as net operating revenue, operating expenses, and retirement of principal and interest expense. Please clarify.

The 2013 financial statements are for all three of OiA's Tennessee facilities (Knoxville, Nashville, and Memphis). The information in the historical data chart is only for the Memphis facility.

Please describe the changes implemented to improve financial performance (net operating income less capital expenditures) between 2012 - 2013.

The improved financial results in 2013 were primarily due to (1) increased MRI volumes and (2) reduction of fees to affiliates resulting from a reallocation of expenses between facilities under common ownership.

Why are the amounts for billing fees identical to the amounts for management fees? Both fees are based on the same percentage of revenue (5%), so they are the same dollar amount.

How many patients and MRI procedures accounted for the \$101,833 of charity care in 2013?

83 patients accounted for the MRI charity care in 2013.

How many MRI procedures of the Stage Road ODC were interpreted by radiologists in 2013 that corresponds to the \$179,181 of Professional Fees paid during the period?

All MRI procedures done in 2013 at the Stage Road facility were interpreted by radiologists. 2,564 MRIs were done at the existing facility in 2013.

21. Section C. (Economic Feasibility) Question 4 (Projected Data Chart)

In both charts (full ODC and MRI), Net Operating Income less capital expenditures of the applicant ODC is unfavorable in the first two years of the project. Please discuss what options the applicant has considered to improve the projected financial performance and reach a favorable operating margin. As a suggestion, the applicant should address what provisions have been considered for increasing the projected MRI and other imaging service utilization in years one and two in order to reach and exceed financial breakeven, and what consideration has been provided for reducing operating expenses such as the management fees, billing fees and other expenses in years one and two.

The applicant's members will contribute initial capital of \$1.4 million. As explained in response to question 6, the capital required to get the facility open and sustain it until positive cash flow is achieved is approximately \$891,000 (\$471, 000 for initial expenses and \$420,000 in working capital). Initial capitalization should be more than sufficient to address unexpected expenses and to sustain the facility until it is profitable.

How many patients and imaging procedures account for the \$271,256 and \$282,732 amounts projected for charity care of the full project in the first and second years of the

March 26, 2014 2:50pm

project (please provide for each service type of the ODC - MRI, CT, Ultrasound and Fluoroscopy).

The following table is an estimate of the number of charity care patients per modality in Years 1 and 2 of the project.

Modality	Year 1	Year 2
MRI	85	87
CT	47	48
Ultrasound	144	148
X-Ray	68	69
Flouroscopy	28	29
Arthrogram	23	24
Total	395	404

Please identify the equipment that is being depreciated at the rate of \$789,668 per year in the chart.

The depreciation total includes both equipment and leasehold improvements. The equipment subject to depreciation includes all equipment in the facility, depreciated at \$494,739 per year for 5 years. Leasehold improvements will be depreciated at \$294,929 per year for 7 years.

The applicant has documented that a new 1.5 Tesla MRI unit will be purchased, installed and operated in the proposed ODC. However, equipment leases are identified in the full and MRI-Only Projected Data Charts for Year Two of the project (\$182,500 and \$100,000, respectively). Please clarify by identifying the equipment that will be leased by the applicant. In your response, please show the amounts by type equipment that may apply.

The line item in the "Other Expenses" chart should have said "Equipment Service" rather than "Equipment Lease and Service" because the only expense is the service fee. There is no service expense for Year 1 because the equipment is under warranty for Year 1

22. Section C. (Economic Feasibility) Item 5 and Item 6.B

Please note the updated HSDA chart for MRI and CT Gross Charges per Procedure/Treatment by quartiles for years 2010 through 2012 in the following table and compare to the gross charges of MRI and CT services of the proposed ODC:

Equipment Type	Proposed Charge	HSDA Median Charge - 2012
CT Scanner	\$1,110	\$1,735.22
MRI Scanner	\$1,346	\$2,106.03

23. Section C, Economic Feasibility, Item 10

The alternatives are noted. Please describe what is meant by the proposed ODC at 7600 Wolf River Boulevard in Memphis being more centrally located to the patient base by including an estimate of distance in miles and driving time as evidence of same.

Jeff Grimm March 26, 2014 Page 11

March 26, 2014 2:50pm

To consider actual travel distance for comparison, a month of data, December 2013, was used for analysis of actual driving distance for Shelby County residents to each of the two locations. Shelby County accounts for the majority of patients and 104 patients from Shelby County were seen at the center on Stage Road in that month. The average driving distance for those patients was 11.64 miles. If those patients had travelled to the proposed location on Wolf River Blvd, the average distance would have been 11.82 miles, approximately the same distance. However, the growth in patient volumes between 2013 and 2012 was mainly from patients who are closer to the Wolf River Blvd. location. The advantages of the new site are confirmed by the letters of support.

Based on Baptist Memorial HealthCare's (BMH) participation in the proposed ODC, was any consideration given to sharing MRI services through a shared space arrangement with any of the BMH imaging sites located in Shelby County? In your response, please include the distances & driving times of same to the location of the proposed ODC. The concept of sharing an MRI currently operated by Baptist Memorial in Memphis is not practical or feasible for several reasons. The Baptist Memorial organization has one shared MRI at Briarcrest, but it is heavily utilized and could not accommodate an additional sharing arrangement. The remaining Baptist Memorial facilities are hospitalbased and sharing with another entity would present difficult if not insurmountable structural and legal issues. In addition, none of the Baptist Memorial MRIs has the capacity to absorb the utilization of the proposed facility, with the possible exception of the MRI that was recently initiated at Baptist Memorial Hospital for Women. The MRI at the Women's hospital is intended to serve primarily pediatric patient and women, and making it available to serve the patients who will be served at the proposed facility would undermine the purpose of the MRI the Women's hospital, as well as encountering the obstacles associated with a hospital-based MRI. Moreover, the closing of the MRI on Stage Road contributes to the cost-effectiveness of the project.

The following chart lists the distances and drive times to the various BMH MRIs in Shelby County.

Distance from Wolf River Blvd proposed location t Units:	o BMH MRI
Baptist Memphis 6019 Walnut Grove Road	3.4 miles
Baptist Collierville 1500 West Poplar Ave	8.3 miles
Baptist Womens 6225 Humphreys Blvd	2.9 miles
Baptist Rehabilitation -2100 Exeter Road	2.5 miles
Baptist Rehabilitation 6286 Briarcrest (Shared)	3.5 miles

Did the applicant consider simply relocating the existing ODC, Outpatient Diagnostic Center of Memphis in lieu of forming a new applicant LLC resulting in a change of ownership? Please discuss.

OiA could have relocated the facility then added the joint venture partners, but the three members of West Tennessee Imaging, LLC, felt that it was more transparent to apply as the new entity.

24. Section C, Contribution to Orderly Development, Item 3.

Jeff Grimm March 26, 2014 Page 12

March 26, 2014 2:50pm

The staffing estimate of employees providing patient care at the proposed ODC is approximately four (4) full time equivalents at an annual total base salary of \$180,000. Adding benefits @ 35%, the total annual amount is approximately \$243,000. When compared to an average projected salary and wage expense of approximately \$545,000 per year in the first two years of the project, does the staffing estimate account for all patient care staff involved in the project? Please clarify.

The staffing estimate accounts for all clinical staff. The total salary and wage expense of

\$545,000 includes non-clinical staff, such as administrative and clerical staff.

25. Registration of Medical Equipment with HSDA

It appears that HSDA records indicate that the manager of the proposed LLC has registered a CT scanner located at its ODC on 5130 Stage Road in Memphis. However, no utilization has been reported. Since there is no reference to the CT scanner in the application (including reference in the Square Footage Chart on page 8), please clarify. If a CT scanner is in operation at the manager's current ODC, please report the utilization of this equipment to Alecia Craighead, Statistical Analyst III, HSDA as soon as possible on or before submission of your responses to this supplemental questionnaire. Please note the following:

According to 68-11-1607(i), "The owners of the following types of equipment shall register such equipment with the health services and development agency: computerized axial tomographers, lithotripters, magnetic resonance imagers, linear accelerators and position emission tomography. The registration shall be in a manner and on forms prescribed by the agency and shall include ownership, location, and the expected useful life of such equipment. The first registration of all such equipment shall be on or before September 30, 2002. Thereafter, registration shall occur within ninety (90) days of acquisition of the equipment. All such equipment shall be filed on an annual inventory survey developed by the agency. The survey shall include, but not be limited to, the identification of the equipment and utilization data according to source of payment. The survey shall be filed no later than thirty (30) days following the end of each state fiscal year. The agency is authorized to impose a penalty not to exceed fifty dollars (\$50.00) for each day the survey is late."

OiA purchased the 5130 Stage Road facility in March 2011. There was not a CT scanner at that time, and there has not been a CT scanner since then. The applicant is unaware of why a CT scanner is registered with the State at that location.

Please do not hesitate to contact me with any further questions.

Sincerely,

Perry Baker by ME of perses on

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March 26, 2014 2:50pm

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AFFIDAVIT

STATE OF TENNESSEE

COUNTY OF Williamson

COUNTY OF WITHAMSON
NAME OF FACILITY: WEST TENNESSEE IMAGING d/b/a OUTPATIEN DIAGNOSTIC CENTER OF MEMPH'S
I, W Perus Bakel , after first being duly sworn, state under oath that I am the applicant named in this Certificate of Need application or the lawful agent thereof, that I have reviewed all of the supplemental information submitted herewith, and that it is true, accurate, and complete.
Signature/Title CFO
Sworn to and subscribed before me, a Notary Public, this the day of Morch, 2014, witness my hand at office in the County of Williamson, State of Tennessee.
NOTARY BUBLIC My commission expires April 15 , 2017.
HF-0043
Revised 7/02

March 26, 2014 2:50pm

Attachment A Revised pages 1-2

March 26, 2014 2:50pm

Name of Facility, Agency, or Insti	tution	G to af Momphis
/est Tennessee Imaging, LLC, d/b/aOutpa	tient Diagnosti	c Center of Memphs
ame		
		Shelby
600 Wolf River Blvd.	_	County
treet or Route		
	TN	38138
<u>Memphis</u>	State	Zip Code
City		
2. Contact Person available for Re	sponse to Ques	tions
Z. Contact 1 Class		CFO, Outpatient Imaging Affiliates
Perry Baker		Title
Name		
S. J. D. Suite 200	Franklin	<u>TN</u> 37067
840 Crescent Centre Drive, Suite 200	City	State Zip Code
Street or Route		615-261-2300
1 - Figint venture	615-550-60	
Mamber of Ioiii Veillule	<u> </u>	Fay Number
Member of joint venture Association with Owner	Phone Num	Fax Number
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Association with Owner	Phone Nun	nber Fax Number
Association with Owner 3. Owner of the Facility, Agency	Phone Nun	1ber Fax Number 615-550-6044
Association with Owner	Phone Nun	nber Fax Number
Association with Owner 3. Owner of the Facility, Agency	Phone Nun	hber Fax Number 615-550-6044 Phone Number
3. Owner of the Facility, Agency of West Tennessee Imaging, LLC Name	Phone Nun	hber Fax Number 615-550-6044 Phone Number Shelby
3. Owner of the Facility, Agency of West Tennessee Imaging, LLC Name 7600 Wolf River Blvd.	Phone Nun	hber Fax Number 615-550-6044 Phone Number
3. Owner of the Facility, Agency of West Tennessee Imaging, LLC Name	Phone Num	615-550-6044 Phone Number Shelby County
3. Owner of the Facility, Agency of West Tennessee Imaging, LLC Name 7600 Wolf River Blvd. Street or Route	Phone Num or Institution TN	615-550-6044 Phone Number Shelby County 38138
3. Owner of the Facility, Agency of West Tennessee Imaging, LLC Name 7600 Wolf River Blvd. Street or Route	Phone Num	615-550-6044 Phone Number Shelby County
3. Owner of the Facility, Agency of West Tennessee Imaging, LLC Name 7600 Wolf River Blvd. Street or Route Memphis	Phone Num or Institution TN	615-550-6044 Phone Number Shelby County 38138
3. Owner of the Facility, Agency of West Tennessee Imaging, LLC Name 7600 Wolf River Blvd. Street or Route Memphis City	Phone Num or Institution TN State	615-550-6044 Phone Number Shelby County 38138 Zip Code
3. Owner of the Facility, Agency of West Tennessee Imaging, LLC Name 7600 Wolf River Blvd. Street or Route Memphis City 4 Type of Ownership of Control	Phone Num or Institution TN State L(Check One)	615-550-6044 Phone Number Shelby County 38138 Zip Code Government (State of TN or
Association with Owner 3. Owner of the Facility, Agency of West Tennessee Imaging, LLC Name 7600 Wolf River Blvd. Street or Route Memphis City 4 Type of Ownership of Control A. Sole Proprietorship	Phone Num or Institution TN State I (Check One) F.	615-550-6044 Phone Number Shelby County 38138 Zip Code Government (State of TN or Political Subdivision)
Association with Owner 3. Owner of the Facility, Agency of West Tennessee Imaging, LLC Name 7600 Wolf River Blvd. Street or Route Memphis City 4 Type of Ownership of Control A. Sole Proprietorship Partnership	Phone Num or Institution TN State I (Check One) F	615-550-6044 Phone Number Shelby County 38138 Zip Code Government (State of TN or Political Subdivision) Loint Venture
Association with Owner 3. Owner of the Facility, Agency of West Tennessee Imaging, LLC Name 7600 Wolf River Blvd. Street or Route Memphis City 4 Type of Ownership of Control A. Sole Proprietorship	Phone Num TN State I (Check One) F.	615-550-6044 Phone Number Shelby County 38138 Zip Code Government (State of TN or Political Subdivision) Joint Venture Limited Liability Company X

March 26, 2014 2:50pm

PUT ALL ATTACHMENTS AT THE BACK OF THE APPLICATION IN ORDER AND REFERENCE THE APPLICABLE ITEM NUMBER ON ALL ATTACHMENTS.

EFEF	RENCE THE APPLICABLE ITEM F	ity (T	f Applies	able)	
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utmati	ent Imaging Affiliates, LLC				
utpau ame	ent magnig rim				
	200		7	Williamson	
40 Cr	escent Centre Drive, Suite 200			County	
Street	or Route				27067
m 1.1		IN_			37067 Zip Code
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D.	Center (ASTC), Multi-Specialty		J.	Pesidentis	al Hospice
C.	ASTC, Single Specialty ——		K.	Nonreside	ential Solution-Based
D.	Home Health Agency	-	L.	Treatmen	t Center for Opiate
E.	Hospice			Addiction	
F.	Mental Health Hospital	_	M.	Birthing (
G.	Intellectual Disability		N.	Other Ou	tpatient Facility
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	Initiation of Health Care Service as defined in TCA§			Designa	tion, Distribution,
1	Service as defined in I CA9				

March 26, 2014 2:50pm

Attachment B Letter from OiA

OiA

March 26, 2014 2:50pm

OUTPATIENT IMAGING AFFILIATES, LLC

March 21, 2014

Ms. Melanie Hill Executive Director Tennessee Health Services and Development Agency 502 Deaderick Street, 9th Floor Nashville, TN 37243.

RE: License and right to provide MRI services at 5130 Stage Road in Memphis

Dear Ms. Hill,

This letter is to confirm that, upon approval of this project (Certificate of Need Application CN1401-008), Outpatient Imaging Affiliates, d/b/a Outpatient Diagnostic Center of Memphis ("OiA"), will relinquish the license for the facility located at 5130 Stage Road. Further, OiA will also relinquish its right to provide MRI services at that location.

Thank you for your consideration.

Sincerely,

J. Creighton Cook

Senior Director of Business Development

Outpatient Imaging Affiliates

March 26, 2014 2:50pm

Attachment C OiA Biographical Information

Biographies of OiA's Management

March 26, 2014 2:50pm

Frank R. Kyle - Chief Executive Officer

Frank Kyle has twenty-two years of senior management experience in the radiology services sector. In 1992, Mr. Kyle founded National Imaging Affiliates (NIA), a company with a strategy of acquiring and managing freestanding and hospital-based imaging centers. In 1982, Mr. Kyle was part of a team that founded MedInc, a company that was one of the early pioneers in the development and management of full-service, freestanding outpatient diagnostic imaging centers. Lastly, in September 2000, Mr. Kyle founded Outpatient Imaging Affiliates, LLC to joint venture, develop and manage outpatient diagnostic imaging and PET centers in partnership with local health care providers.

W. Cannon King - President

Cannon King joined OIA at its inception and was named President in 2011 after eleven years of leading OIA's business development efforts. As EVP, Mr. King was responsible for OIA's acquisition activities and the successful nationwide deployment of OIA's partnership model which has resulted in imaging center partnerships with many nationally renowned healthcare providers. Mr. King has been instrumental in growing OIA from a startup company to one of the nation's most well regarded outpatient imaging companies. Mr. King has a wide range of healthcare experience from his past senior management roles with companies in practice management, facilities development and managed healthcare.

Mr. King completed his undergraduate work at the University of Alabama where he received his B.S. in business while majoring in corporate finance and investment management. He received his M.B.A. from Vanderbilt University's Owen School of Management where he was inducted into the international honor society for business schools.

Perry Baker, CPA - Chief Financial Officer

Perry Baker joined OIA in May 2003. Prior to OIA, Mr. Baker was Director of Acquisitions and Development for Symbion Healthcare, Inc., a Nashville, TN-based outpatient surgery center company. Mr. Baker started his career in business development for PhyCor, Inc., and has assisted various start-up healthcare companies to secure funding, establish budgets, and grow through acquisitions. Mr. Baker obtained his BA in Economics from Vanderbilt and his M.B.A. from Vanderbilt University's Owen Graduate School of Management.

Shelly Troutman, EVP - Operations

Shelly Troutman was promoted to the corporate office at OiA in the fall of 2013 to assume the lead role in the management of all OiA centers. This move came after a very successful decade long run as the Administrator at OiA's largest and most successful joint venture, University of Virginia Imaging (Charlottesville). Shelly's impact was immediately felt as she distributed her demonstrated best practices across the entire OiA network of centers.

Listing of OiA owned or managed centers:

March 26, 2014 2:50pm

Centers Owned 100% by OIA

Premier Diagnostic Center 3920 North Union Blvd, Suite 130 Colorado Springs, CO 80907

Outpatient Diagnostic Center of Huntsville 115 St. Claire Avenue Hunstville, AL 35801

Outpatient Diagnostic Center of Madison 540 Hughes Road, Suite 5 Madison, Alabama 35758

Outpatient Diagnostic Center of Memphis 5130 Stage Road Memphis, TN 38134

Outpatient Diagnostic Center of Nashville 337 22nd Avenue North Nashville, TN 37203

Outpatient Diagnostic Center of Knoxville 601 Hall of Fame Drive Knoxville, TN 37915

Augusta Open MRI 3685 Wheeler Road Augusta, GA 30909

Nebraska Health Imaging 7819 Dodge Street Omaha, NE 68114

Lincoln Trail Diagnostics 1111 Woodland Drive Elizabethtown, KY 42701

Raleigh Radiology at Cedarhurst 1212 Cedarhurst Dr Raleigh, NC 27609

Raleigh Radiology at Clayton 300 Guy Rd, Suite 102 Clayton, NC 27520

Raleigh Radiology Wake Forest 839 Durham Hwy, Unit A Wake Forest, NC 27587

Management Contract Only

Ft. Jesse Imaging Center 2200 Ft. Jesse Rd Normal, IL 61761

OiA Joint Ventured Centers

Raleigh Radiology Brier Creek 8851 Ellstree Lane, Suite 100 Raleigh, NC 27617

Holmdel Imaging, LLC 100 commons Way Suite 110 Holmdel, NJ 07733

UVA Imaging 415 Ray C. Hunt Drive Charlottesville, VA 22903

> 545 Ray C. Hunt Drive Charlottesville, VA 22903

1015 Spring Creek Parkway Zion Crossroads, VA 22942

2965 Ivy Road (250 West) Charlottesville, VA 22901

Chesapeake Regional Imaging Centers 676A Kingsborough Square Chesapeake, VA 23320

> 171 Kempsville Rd Building C Norfolk, VA 23502

Jefferson Outpatient Imaging 850 Walnut Street Philadelphia, PA 19107

> 430 Park Plaza, Suite 100 Collegeville, PA 19426

1 West Germantwon Pike East Norriton, PA 19401

470 John Young Way Exton, PA 19341

March 26, 2014 2:50pm

Attachment D Executed Lease

March 26, 2014 2:50pm

OFFICE LEASE AGREEMENT

ARTICLE 1. BASIC LEASE TERMS

- 1.1. Parties. This Office Lease agreement ("Lease") is entered into by and between the following Landlord and Tenant: CYPRESS REALTY HOLDINGS COMPANY II, LLC, a Delaware limited liability company ("Landlord"); and WEST TENNESSEE IMAGING, LLC, a Tennessee limited liability company ("Tenant").
- 1.2. Leased Premises. In consideration of the rents, terms, provisions and covenants of this Lease, Landlord hereby leases, lets and demises to Tenant and Tenant hereby leases and accepts from Landlord the following described premises ("Leased Premises"), as shown on the floor plan which is attached as Exhibit A-1 hereto and incorporated by reference herein:

Approximately 8,258 rentable square feet on the first floor of the Wolf River Office Facility located at 7600 Wolf River Blvd ("Building"), Suite _____, Germantown, Tennessee 38138 located on certain real property owned by Landlord described more particularly on Exhibit A-2 annexed hereto and incorporated herein by this reference ("Project").

Landlord anticipates that the Building, a two story structure with drop off covered portico and a public elevator, shall contain approximately 34,703 rentable square feet. Parking shall be provided at approximately five (5) spaces per 1,000 square feet of Building.

Term. Subject to and upon the conditions set forth herein, the term of this Lease shall commence on the earlier of (i) the date of "Substantial Completion" as defined on Exhibit "B" Section 3 e. or (ii) the date the Tenant takes possession of the Leased Premises for the purposes of conducting Tenant's business ("Commencement Date"), and shall expire one hundred twenty (120) months thereafter. Landlord and Tenant shall confirm the Commencement Date and expiration date in writing within thirty (30) days after the actual Commencement Date in the form reasonably requested by Landlord. Upon Tenant's taking possession of the Leased Premises for the purpose of conducting business shall be deemed acceptance of the Leased Premises by Tenant. As used herein, the defined term "Term" shall mean the initial 120 month term described in this Section 1.3, together with any and all Renewal Terms, as defined in Section15.3. Notwithstanding the foregoing, if the Commencement Date has not occurred by the Outside Completion Deadline (defined below), then Tenant may terminate this Lease, effective as of the Outside Completion Deadline, by delivering written notice to Landlord, and upon such termination, Landlord shall promptly return the Security Deposit to Tenant, and neither party will have any further obligation under this Lease. As used in this Lease, "Outside Completion Deadline" means July 1, 2015, unless construction of the Building or the Leased Premises is delayed by an act of God, force majeure, or Tenant Delay (as defined on Exhibit "B"), in which case the Outside Completion Deadline will be extended by the number of days by which construction of the Building or the Leased Premises has been delayed by act of God, force majeure, or Tenant Delay.

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March 26, 2014 2:50pm

Base Rent and Security Deposit. Base Rent shall be payable in monthly installments on the first day of each month, as provided in Section 2.1 herein below, in accordance with the following Base Rent Schedule:

For the period from the Commencement Date through and for a period of twelve (12) consecutive calendar months ("First Year"), Base Rent shall equal \$23.50 times the total rentable square feet of the Leased Premises.

Upon expiration of the First Year and the expiration each calendar year thereafter throughout the remainder of the Term of this Lease, the monthly Base Rent shall be increased to an amount equal to one hundred two percent (102.00%) of the monthly Base Rent payable for the immediately preceding year of the Term, and such increased monthly Base Rent shall be payable for each month during the next succeeding twelve (12) month period.

There is an initial Security Deposit of \$953,915.55 required under this Lease. The Security Deposit may be posted, at Tenant's election, either in cash or pursuant to an irrevocable standby letter of credit in a form and issued by a regional commercial bank in the amount scheduled on Exhibit "D" annexed hereto and incorporated herein by this reference. Absent the prior occurrence of a Tenant event of default, the Security Deposit shall decrease over the Term as provided in Exhibit "C." The form and issuer of the letter of credit shall be mutually satisfactory to Landlord and Tenant. In the event Tenant's letter of credit requires an annual commitment fee, then provided that Tenant is not default hereunder beyond any applicable cure period, Landlord agrees to each year reimburse Tenant up to, but not exceeding, the lesser of (i) \$3,000.00, or (ii) fifty percent (50%) of such commitment fee. The letter of credit shall provide for annual renewals. Tenant's failure to have the letter of credit renewed not less than thirty (30) days prior to expiration of the letter of credit shall permit the Landlord to draw the entire amount of the letter of credit and such failure shall be considered a Tenant event of default hereunder if said letter of credit is not renewed within said 30day period. If Tenant shall fail to timely renew the letter of credit within said thirty (30) day period, and thereafter, Landlord shall excuse Tenant's default and elect not to terminate this Lease, Landlord shall promptly return any letter of credit proceeds drawn and received by Landlord as a result of Tenant's failure to timely renew the letter of credit. The letter of credit shall further permit a full draw by Landlord in the event there is a Tenant event of default under this Lease.

The Tenant's Pro Rata Share of Landlord's Operating Expenses as defined in Section 2.3 herein below shall be determined as provided in Section 2.2 herein below.

Notice Addresses. 1.5.

Landlord's Address: Cypress Realty Holdings Company II, LLC 700 Colonial Road, Suite 100

Memphis, Tennessee 38117

Attn: Price D. Ford, Sr., Chief Manager

With a copy to:

Tenant's Address:

West Tennessee Imaging, LLC 840 Crescent Center Drive, Suite 200 Franklin, Tennessee 37067 Attn: Cannon King, Chief Manager

With a copy to:

March 26, 2014 2:50pm

Lurie and Associates, LLC 2650 Thousand Oaks Blvd, Suite 2350 Memphis, Tennessee 38118 Attn: Property Manager

1.6. Permitted Use. The Leased Premises shall be used only for an imaging clinic and administrative and offices services consistent with or ancillary thereto, and for no other purpose without the prior written consent of Landlord.

ARTICLE 2. RENT

- 2.1. Base Rent. Tenant agrees to pay monthly as Base Rent, as adjusted, during the term of this Lease the sum of money set forth in Section 1.4 of this Lease, which amount shall be payable to Landlord at the address shown above or at such other address as designated in writing by Landlord or Landlord's Property Manager. A monthly installment of Base Rent as provided in Section 1.4 or Landlord's Property Manager. A monthly installment of Base Rent as provided in Section 1.4 or Landlord and payable on or before the first (1st) day of each calendar month thereafter during the shall be due and payable on or before the first (1st) day of each shall be prorated for the first (1st) month to day of a calendar month, the monthly Base Rent above shall be prorated for the first (1st) month to day of a calendar month, and all succeeding installments of Base Rent shall be payable on or the end of that calendar month, and all succeeding calendar month during the Term of this Lease. Tenant before the first (1st) day of each succeeding calendar month during the Term of this Lease. Shall pay, as additional rent, all other sums due under this Lease throughout the Term of this Lease. All Base Rent and additional rent shall be paid by Tenant to Landlord without abatement (except as All Base Rent and additional rent shall be paid by Tenant to Landlord without abatement (except as All Base Rent and additional rent shall be paid by Tenant to Landlord without abatement (except as All Base Rent and additional rent shall be paid by Tenant to Landlord without abatement (except as
 - Operating Expenses. It is the intent and purpose of Landlord and Tenant that the Base Rent payable by Tenant to Landlord, as provided in Sections 1.4 and 2.1 hereinabove, shall be absolutely "net" to Landlord. Therefore, in addition to such payment of Base Rent, Tenant agrees to pay, effective as of the Commencement Date, as additional rent Tenant's Pro Rata Share of Landlord's "Operating Expenses" (as defined in Section 2.3 herein below) for the Building and/or Project of which the Leased Premises are a part in any calendar year during the Term of this Lease. Tenant shall make a monthly contribution, as calculated by the Landlord, for Tenant's Pro Rata Share of the estimated Operating Expenses for each calendar year, which amount shall be adjusted each year based upon anticipated Operating Expenses. Within nine (9) months following the close of each calendar year, Landlord shall provide Tenant an accounting showing in reasonable detail all computations of additional rent due under this Section. In the event the accounting shows that the total of the monthly payments made by Tenant exceeds the amount of additional rent due by Tenant under this Section, the excess shall be credited against Tenant's Pro Rata Share of the established Operating Expenses due in the following year. In the event the accounting shows that the total of the monthly payments made by Tenant is less than the amount of additional rent due by Tenant under this Section, the accounting shall be accompanied by an invoice for the additional rent. Notwithstanding any other provision in this Lease, during the year in which the Lease terminates, Landlord, prior to the termination date, shall have the option to invoice Tenant for Tenant's Pro Rata Share of Operating Expenses based upon the previous year's Operating Expenses. If this Lease shall terminate on a day other than the last day of a calendar year, the amount of any additional rent payable by Tenant applicable to the year in which such termination shall occur shall be prorated on

March 26, 2014 2:50pm

the ratio that the number of days from the commencement of the calendar year to and including the termination date bears to 365. Tenant shall have the right, at its expense, to audit Landlord's books relevant to the additional rent payable under this Section. With respect to such audit, Tenant 1) may relevant to the additional rent payable under this Section. With respect to such audit at the location of review Landlord's books during regular office hours, 2) must perform such audit at the location of Landlord's books, 3) must request such audit within thirty (30) days of Landlord's delivery of its Landlord's books, 3) must request such audit within thirty (30) days of Landlord a copy of the results of annual reconciliation of Operating Expenses, 4) must deliver to Landlord a copy of the results such audit, 5) may not audit the same calendar year more than one time, and 6) must keep the results of such audit confidential.

Landlord estimates Tenant's share of Operating Expenses to be \$10.56 per rentable square foot for the first full 12 calendar months of the Lease. Operating Expenses shall never exceed the normal and customary operating expenses for Class A multi-tenant medical buildings located in the Wolf River Corridor in Memphis, Tennessee.

For purposes of this Section 2.2, Tenant's Pro Rata Share shall be computed by multiplying the total amount of the Operating Expenses by a fraction, the numerator of which shall be the number of rentable square feet in the Leased Premises (as set forth in Section 1.2), and the denominator of which shall be the total number of rentable square feet in the Building (as the same may be increased which shall be the total number rentable square feet in the Building is ever increased for any from time to time). If the total number rentable square feet in the Building is ever increased for any reason, then the computation of Tenant's Pro Rata Share shall be based on the new number of reason, then the computation of Tenant's Pro Rata Share shall promptly notify Tenant of any rentable square feet in the building; provided however, Landlord shall promptly notify Tenant of any such changes and shall provide a written explanation for the change. Assignees of Tenant may only such changes and shall provide a written explanation for the changes and subtenants of Tenant shall audit periods for which they actually occupy the Leased Premises and subtenants of Tenant shall have no audit rights. Tenant agrees to pay any additional rent due under this Section within ten (10) days following receipt of the invoice or accounting showing additional rent due.

Definition of Operating Expenses. The term "Operating Expenses" includes all costs and expenses of every kind and nature incurred by Landlord with respect to the ownership, management, maintenance, security, repair, replacement, restoration, or operation of the Building or Project of which the Leased Premises are a part, including, but not limited to, the following: maintenance, repair and replacement costs; electricity, fuel, water, sewer, gas and other utility charges attributable to the common areas of the Building or Project; the cost of operating, repairing, maintaining, and renovating the utility, telephone, mechanical, sanitary, storm drainage, and elevator systems, and service contracts in connection therewith; the cost of licenses, certificates, permits, and inspections, security and alarm services, window washing and janitorial services; trash and snow removal; landscaping, irrigating, gardening, relamping, and all supplies, tools, equipment and materials used in the operation, repair and maintenance of the Building or Project or any portion thereof; costs of operation, repair, maintenance and replacement of all systems and equipment and components thereof of the Building or Project; fire protection; pest control; all fees and other costs, including management fees, consulting fees, legal fees and accounting fees, of all managers, contractors and consultants in connection with the management, operation, maintenance and repair of the Project; wages and benefits payable to employees of Landlord or any management company engaged by Landlord and whose duties are directly connected with the operation and maintenance of the Building; all services, supplies, repairs, replacements or other expenses for maintaining and operating the Building or Project, including parking and common areas, on-site traffic controls, private drives, curbs, sidewalks, walkways, lift stations, drainage facilities, retaining walls, and the

March 26, 2014 2:50pm

related grounds of the Project; the costs of maintaining and repairing the items set forth in Sections 4.1 and 5.1 below which Landlord is required to maintain and repair; the cost, amortized over its useful life, of any capital improvement made to the Building by Landlord after the date of this Lease useful life, of any capital improvement made to the Building by Landlord after the date of this Lease useful life, of any capital improvement all aw or regulation that was not applicable to the Building which is required under any governmental law or regulation that was not applicable to the Building which is required under any governmental law or regulation that was not applicable to the Building of any device or at the time it was constructed; the cost, amortized over its useful life, of installation of any device or at the time it was constructed; the cost, amortized over its useful life, of installation of any device or at the time it was constructed; the cost, amortized over its useful life, of installation of any device or at the time it was constructed; the cost, amortized over its useful life, of installation of any device or at the Eased Premises and thereby reduces Operating Expenses, but only to the extent of such reduction; all other expenses and thereby reduces Operating Expenses, but only to the extent of such reduction; all other expenses and thereby reduces Operating Expenses, but only to the extent of such reduction; all other expenses and thereby reduces Operating Expenses, but only to the extent of such reduction; all other expenses and thereby reduces Operating Expenses, but only to the extent of such reduction; all other expenses and thereby reduces Operating Expenses, but only the Expenses of the Expenses, but only to the extent of such reduction; all other expenses and thereby reduces Operating Expenses, but only the Expenses of the Expenses, but only the Expenses, but only the Expenses, but only the

The term "Operating Expenses" does not include the following: any taxes on Landlord's income; franchise taxes, or corporate or unincorporated business taxes; estate, gift, succession or inheritance taxes; any capital gains, mortgage recording or transfer taxes or any similar taxes imposed on Landlord; expenses incurred in leasing to, or procuring of tenants, leasing commissions, advertising expenses and expenses for the renovating of space for new tenants, as opposed to all tenants of the Project; interest or principal payments on any mortgage or other indebtedness of Landlord; compensation paid to any executive level employee of Landlord above the grade of property manager; any depreciation or amortization allowance or expense properly associated with a capital improvement under generally accepted accounting principles, consistently applied; expenses which are the sole responsibility of Tenant; costs incurred by Landlord in discharging its obligations in constructing the Initial Improvements; costs (including permit, license, and inspection fees) incurred in renovating, improving, decorating, painting, or redecorating vacant space or space for tenants, as opposed to costs associated with renovating, improving, decorating, painting or redecorating space for all tenants of the Project; Landlord's cost of electricity or other service sold to tenants for which Landlord is actually reimbursed as a charge over the Rent and Additional Rent payable under the lease with such tenants; costs incurred by Landlord for alterations that are considered capital improvements and replacements under generally accepted accounting principles consistently applied, except that the annual amortization of these costs shall be included to the extent expressly permitted in the above paragraph; costs of a capital nature including capital improvements, capital repairs, capital equipment, and capital tools, as determined under generally accepted accounting principles consistently applied, except that the annual amortization of these costs shall be included in the definition of "Operating Expenses" to the extent expressly permitted in the immediately preceding paragraph; costs incurred because Landlord or another tenant violated the terms of any lease; overhead and profit paid to subsidiaries or affiliates of Landlord for management or other services relating to the Building or Project, but only to the extent that the cost of such expenses exceeds amounts or rates customarily charged in arms-length negotiated agreements or arrangements with independent third parties; rentals and other related expenses incurred in leasing air conditioning systems, or other equipment ordinarily considered to be of a capital nature, except equipment used in providing janitorial services that is not affixed to the Building; items and services

March 26, 2014 2:50pm

for which Tenant reimburses Landlord or pays third parties, or that Landlord provides selectively to one or more tenants of the Building other than Tenant without reimbursement for the same; costs and expenses of repairing items that are covered by warranties or insurance, to the extent of actual payment to Landlord under such warranty or insurance coverage; advertising and promotional payment to Landlord under such warranty or insurance coverage; advertising and promotional expenditures that do not benefit all tenants of the Project; costs incurred to remedy structural defects in original construction materials or installations; any costs, fines, or penalties incurred because in original construction materials or installations; any costs incurred to test, survey, cleanup, contain, Landlord violated any governmental rule or authority; costs incurred to test, survey, cleanup, contain, Hazardous Substances in, on, or under the Project unless the abate, remove, or otherwise remedy Hazardous Substances in, on, or under the Project because of Tenant's negligence or intentional Hazardous Substances were in, on, or under the Project because of Tenant's negligence or intentional Hazardous Substances were in, on, or under the Project because of Tenant's negligence or intentional that acts incurred to comply with the ADA Laws except to the extent compliance is required acts; and costs incurred to comply with the ADA Laws except to the extent compliance is required acts; and costs incurred to comply with the ADA Laws except to the extent compliance is required acts; and costs incurred to comply with the ADA Laws except to the extent compliance is required acts; and costs incurred to comply with the ADA Laws except to the extent compliance is required acts; and costs incurred to comply with the ADA Laws except to the extent compliance is required.

As used in this Section 2.3, the term "Taxes" shall mean and include the following: Any and all taxes and assessments and governmental charges (special or otherwise of every kind and nature) whether federal, state, county or municipal, including any fees, assessments and charges levied against the Building or Project (including the land) and whether they be by taxing or management districts or authorities presently taxing or by others, subsequently created or otherwise, and any other taxes and assessments attributable to the Building (or its operation) or the Project, and the grounds, parking areas, driveways, and alleys around the Building, including without limitation real taxes due in lieu of ad valorem real estate taxes and, including without limitation reasonable expenses incurred by Landlord in contesting the validity of, seeking a reduction in, or seeking to prevent an increase in any such taxes or assessments, excluding, however, any taxes on Landlord's income; franchise taxes (other than as provided below), or corporate or unincorporated business taxes; estate, gift, succession or inheritance taxes; any capital gains, mortgage recording or transfer taxes or any similar taxes imposed on Landlord; if the present method of taxation changes so that, in lieu of or in addition to the whole or any part of any Taxes levied on the Building or Project (including the land), there is levied on Landlord a capital tax directly on the rents received therefrom or a franchise tax, assessment, or charge based, in whole or in part, upon such rents for the Building or Project, then all such taxes, assessments, or charges, or the part thereof so based, shall be deemed to be included within the term "Taxes" for the purposes hereof.

- 2.4. Late Payment Charge. Other remedies for nonpayment of rent notwithstanding, if the monthly rental payment is not received by Landlord on or before the fifth (5th) day of the month for which the rent is due, or if any other payment due Landlord by Tenant is not received by Landlord on or before the tenth (10th) day of the month next following the month in which Tenant Landlord on or before the tenth (10th) day of the month next following the month in which Tenant was invoiced, a late payment charge of five percent (5%) of such past due amount shall become due and payable in addition to such amounts owed under this Lease.
- 2.5. Increase in Insurance Premiums. If an increase in any insurance premiums paid by Landlord for the Building is caused by Tenant's use of the Leased Premises in a manner other than as set forth in Section 1.6, or if Tenant vacates the Premises and Landlord elects not to terminate this Lease, then Tenant shall pay as additional rent, or be responsible for, the amount of such increase related to Tenant's vacating the Premises.

March 26, 2014 2:50pm

- 2.6. Security Deposit. The security deposit set forth above shall be held by Landlord for the performance of Tenant's covenants and obligations under this Lease, it being expressly understood that the security deposit shall not be considered an advance payment of rental or a understood that the security deposit shall not be considered an advance payment of rental or a measure of Landlord's damage in case of default by Tenant. Upon the occurrence of any event of measure of Landlord's damage in case of default by Tenant, Landlord may, from time to time, default by Tenant, upon three (3) days' prior notice to Tenant, Landlord may, from time to time, default prejudice to any other remedy, use the security deposit to the extent necessary to make good without prejudice to any other remedy, use the security deposit to the extent necessary to make good without prejudice to any other remedy, use the security deposit to the extent necessary to make good without prejudice to any other remedy, use the security deposit to the extent necessary to make good without prejudice to any other remedy, use the security deposit to the extent necessary to make good without prejudice to any other remedy, use the security deposit to the extent necessary to make good without prejudice to any other remedy, use the security deposit to the extent necessary to make good without prejudice to any other remedy, use the security deposit to the extent necessary to make good without prejudice to any other remedy, use the security deposit to the extent necessary to make good without prejudice to any other remedy, use the security deposit to the extent necessary to make good without prejudice to any other remedy, use the security deposit of the extent necessary to make good any other remedy, use the security deposit to the extent necessary to make good any other remedy, use the security deposit to the extent necessary to make good any other remedy, use the security deposit to the extent necessary to make good any other remedy, use the security depos
 - Surrender of Leased Premises and Holding Over. At the expiration or any earlier termination of the tenancy created herein, Tenant shall (a) immediately surrender the Leased Premises to Landlord in the same condition as the Leased Premises was on the date of delivery of possession to Tenant reasonable wear and tear excluded; (b) remove the MRI chillers or any other rooftop equipment installed by Tenant and any lead lining walls used in the MRI suites (provided, however, Tenant shall have no obligation to remove the mobile imaging pad); and (c) surrender all keys to the Leased Premises. In the event that Tenant does not vacate the Leased Premises upon the expiration or termination of this Lease, Tenant shall be a tenant at will for the holdover period and all of the terms and provisions of this Lease shall be applicable during that period, except that Tenant shall pay Landlord as Base Rental for the period of such holdover an amount equal to one and onehalf (1.5) times the Base Rent which would have been payable by Tenant had the holdover period been a part of the original Term of this Lease. Tenant agrees to vacate and deliver the Leased Premises to Landlord upon Tenant's receipt of notice from Landlord to vacate. The rental payable during the holdover period shall be payable to Landlord on demand. No holding over by Tenant, without the consent of Landlord, shall operate to extend the Term of this Lease. The obligations of Tenant hereunder shall survive the expiration or termination of this Lease for a period of one year.

ARTICLE 3. OCCUPANCY AND USE

used and occupied only for the purpose as set forth in Section 1.6. Tenant shall occupy the Leased Premises, conduct its business and control its agents, employees, invitees and visitors in such a Premises, conduct its business and control its agents, employees, invitees and visitors in such a manner as is lawful, reputable and will not create a nuisance. Tenant shall not permit any operation which emits any odor or matter which intrudes into other portions of the Building, use any apparatus or machine which makes undue noise or causes vibration in any portion of the Building or otherwise interfere with, annoy or disturb any other lessee in its normal business operations or Landlord in its interfere with, annoy or disturb any other lessee in its normal business operations or Landlord in its interfere with any other lessee in its normal business operations or Landlord in its interfere with any other lessee in its normal business operations or Landlord in its interfere with, annoy or disturb any other lessee in its normal business operations or Landlord in its interfere with, annoy or disturb any other lessee in its normal business operations or Landlord in its interfere with, annoy or disturb any other lessee in its normal business operations or Landlord in its interfere with, annoy or disturb any other lessee in its normal business operations or Landlord in its interfere with, annoy or disturb any other lessee in its normal business operations or Landlord, be extra allow the Leased Premises to be used in any way which would, in the opinion of Landlord, be extra allow the Leased Premises to be used in any way increase or render void the fire insurance on hazardous on account of fire or which would in any way increase or render void the fire insurance on hazardous on account of fire or which would in any way increase or render void the fire insurance or hazardous on account of fire or which would in any way increase or render void the fire insurance or hazardous on account of fire or which would in any way increa

March 26, 2014 2:50pm

manifestations of such use as an MRI suite will not be considered to breach this covenant or to be an extra hazardous use.

- 3.2. Signs. No sign of any type or description shall be erected, placed or painted in or about the Leased Premises or Project except those signs submitted to Landlord in writing and approved by Landlord in writing, and which signs are in conformance with Landlord's sign criteria established for the Project. Any listings for Tenant or its employees on the Building directory in excess of the basic listing for Tenant shall be at Tenant's sole cost and expense. Landlord shall provide, at its cost, building standard signage on the interior directory and Leased Premises front door signage. Subject to regulatory approval, Landlord shall construct, at Landlord's expense, a monument sign on the street frontage and Tenant shall be named thereon.
- Compliance with Laws, Rules and Regulations. The Building, as constructed, and the Project, will comply with all federal, state, or local laws, ordinances, orders, rules and regulations of state, federal, municipal or other agencies or bodies now or hereafter enacted in all material respects ("Laws"). The foregoing notwithstanding, no minor, temporal, or incidental violation of Laws by Landlord with respect to the Building or the Project shall be deemed to be a default by Landlord hereunder, unless such violation unreasonably interferes with Tenant's conduct of business or use and enjoyment of the Leased Premises. Tenant, at Tenant's sole cost and expense, shall comply, during the Term, with all Laws and those rules and regulations of the Building adopted by Landlord which are set forth on Schedule 3.3 attached to this Lease, as the same may be amended from time to time during the Term. The foregoing notwithstanding, no minor, temporal, or incidental violation of Laws by Tenant with respect to the Premises shall be deemed to be a default by Tenant hereunder, unless such violation unreasonably interferes with Landlord's normal operation of the Building or Project, or interferes with other tenants' quiet enjoyment of their premises located within the Building or Project. Landlord shall have the right at all times to change and amend the rules and regulations in any reasonable manner as may be deemed advisable for the safety, care, cleanliness, preservation of good order and operation or use of the Building or the Leased Premises; provided however, that (i) Tenant shall be given reasonable advance notice of such changes; (ii) such changes shall not unreasonably interfere with Tenant's conduct of business or use and enjoyment of the Leased Premises; and (iii) no such changes shall require Tenant to pay additional moneys that are not properly characterized as Operating Expenses in accordance with Section 2.3. All changes and amendments to the rules and regulations of the Building will be sent by Landlord to Tenant in writing and shall thereafter be carried out and observed by Tenant to the same extent as if they had been attached hereto.

3.4. Hazardous Substances.

(1) **Definitions.** The term "Hazardous Substance(s)," as used in this Lease, shall include, without limitation, any hazardous substances, hazardous waste, pollutant or contaminant that are considered harmful to human health or the environment as identified or designated in any Laws at any time and including biological substances and materials, natural gas, flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and petroleum products, and any and all substances declared at any

March 26, 2014 2:50pm

time to be hazardous or toxic or are otherwise regulated under any Laws now or hereafter enacted or promulgated by any governmental authority.

Tenant's Restrictions. Tenant shall not cause or permit to occur:

- Any violation of any Laws related to environmental conditions on, **(2)** under, or about the Leased Premises, or arising from Tenant's use or occupancy of the Leased Premises, including, but not limited to, soil and ground water conditions;
- The use, generation, release, manufacture, refining, production, processing, storage, or disposal of any Hazardous Substance on, under, or about the Leased Premises, or the transportation to or from the Leased Premises of any Hazardous Substances except for de minimis amounts of Hazardous Substances customarily used in the imaging business, limited quantities reasonably necessary for the operation or maintenance of office equipment or limited quantities of cleaning fluids and solvency required in the normal operation of the Leased Premises, and provided that any and all use of such Hazardous Substances shall be in compliance with Laws and the terms of this Lease.

Tenant's Obligations.

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- Tenant shall, at Tenant's own expense, comply with all Laws (3) regulating the use, generation, storage, transportation, or disposal of Hazardous Substances.
- Tenant shall not discharge, leak or emit or permit to be discharged, leaked or emitted, any material or substance into the atmosphere, ground, sewer system or any body of water, if that material or substance (as is determined by Landlord's authorized environmental expert, or any governmental authority) does or may pollute or contaminate the same or may adversely affect (a) the health, welfare, or safety of persons, whether located on the Premises or else ware, or (b) the condition, use, or enjoyment of the Building or the Project. Tenant shall not use the Premises in a manner objectionable to Landlord or other occupants of the Building by reason of noise, odors, vibrations or interference with other businesses in the Building.
 - Tenant shall, at Tenant's own expense, make all submissions to, provide all information required by, and comply with all requirements of all governmental authorities under the Laws which submissions, information and requirements are related to Tenant's use of the
 - Should any governmental authority or any third party demand that a Leased Premises. cleanup plan be prepared and that a cleanup be undertaken because of any deposit, spill, discharge, or other release of Hazardous Substances that occurs during the Term of this Lease, at or from the Leased Premises, and which arises from Tenant's use or occupancy of the Leased Premises, then Tenant shall, at Tenant's own expense, immediately prepare and submit the required plans and all related bonds and other financial assurances; and Tenant shall carry out all such cleanup plans.
 - Tenant shall promptly provide all information regarding the use, generation, storage, transportation, or disposal of Hazardous Substances that is reasonably requested by Landlord. If Tenant fails to fulfill any duty imposed under this Section within a reasonable time,

March 26, 2014 2:50pm

Landlord may do so and in such case, Tenant shall cooperate with Landlord in order to prepare all documents Landlord deems necessary or appropriate to determine the applicability of the Laws to the Leased Premises and Tenant's use thereof, and for compliance therewith, and Tenant shall execute all documents promptly upon Landlord's request. No such action by Landlord and no attempt made by Landlord to mitigate damages under any Laws shall constitute a waiver of any of Tenant's obligations under this Section.

- (f) Tenant shall comply with this Lease, all Laws, and all reasonable and uniformly imposed rules or regulations of Landlord regarding the storage and disposal of Hazardous Substances and all wastes and materials, provided, however, that in no event shall Landlord's rules and regulations unreasonably interfere with Tenant's conduct of business or use and enjoyment of the Leased Premises.
- (g) Tenant's obligations and liabilities under this Section are in addition to any other obligations and liabilities Tenant may have to Landlord at law or in equity and shall survive the expiration of this Lease.

(4) Tenant's Indemnity.

- manager of the Project, and their respective officers, directors, beneficiaries, shareholders, partners, agents, and employees from all fines, penalties, suits, procedures, claims, liabilities, settlements, agents, and employees from all fines, penalties, suits, procedures, claims, liabilities, settlements, agents, and employees from all fines, penalties, suits, procedures, claims, liabilities, settlements, agents, and employees from all fines, penalties, suits, procedures, claims, liabilities, settlements, agents, and employees from all fines, penalties, suits, procedures, claims, liabilities, settlements, agents, and employees from all costs associated therewith (including damages, costs, expenses and any personal injury or death or property damage arising out of attorneys' and consultants' fees), and any personal injury or death or property damage arising out of attorneys' and consultants' fees), and any personal injury or death or property damage arising out of attorneys' and consultants' fees), and any personal injury or death or property damage arising out of attorneys' and consultants' fees), and any personal injury or death or property damage arising out of attorneys' and consultants' fees), and any personal injury or death or property damage arising out of attorneys' and consultants' fees), and any personal injury or death or property damage arising out of attorneys' and consultants' fees), and any personal injury or death or property damage arising out of attorneys' and consultants' fees), and any personal injury or death or property damage arising out of attorneys' and consultants' fees), and all costs associated therewith (including damages, costs, personal injury or death or property damage arising out of attorneys' and consultants' fees), and all costs associated therewith (including damages, costs, personal injury or death or property damage arising out of attorneys' and consultants' fees), and all costs associated therewith (including damages, costs, personal injury or death or property damage a
 - harmless from any and all claims, actions, causes of action, and losses, including attorney's and consultant's fees and expenses resulting from the release or threatened release of any Hazardous consultant's fees and expenses resulting from the release or threatened release of any Hazardous consultant's fees and expenses resulting from the release or threatened release of any Hazardous consultant's fees and expenses, which occur from Tenant's use and occupancy of the Substances on or about the Leased Premises, which occur from Tenant's use and occupancy of the Leased Premises, or from Tenant's failure to abide by the Laws. This warranty, representation and Leased Premises, or the expiration or other termination of this Lease. If required by any Laws, at the earlier of the expiration or other termination of this Lease or the time Tenant ceases to occupy the Leased Premises, or at any other time, Tenant shall cause the entire Leased Premises to be occupy the Leased Premises, or at any other time, Tenant shall cause the entire Leased Premises to be occupy the Leased Premises, or at any other time, Tenant shall cause the entire Leased Premises to be occupy the Leased Premises, or at any other time, Tenant shall cause the entire Leased Premises to be occupy the Leased Premises, or at any other time, Tenant shall cause the entire Leased Premises to be occupy the Leased Premises, or at any other time, Tenant shall cause the entire Leased Premises to be occupy the Leased Premises, or at any other time, Tenant shall cause the entire Leased Premises to be occupy the Leased Premises, or at any other time, Tenant shall cause the entire Leased Premises to be occupy the Leased Premises, or at any other time, Tenant shall cause the entire Leased Premises to be occupy the Leased Premises, or at any other time, Tenant shall cause the entire Leased Premises to be occupy the Leased Premises, or at any other time, Tenant shall cause the entire Leased Premises to be occupy the Leased Premises, or at any other time, Tenant shall cau

March 26, 2014 2:50pm

constitute an independent obligation to indemnify Landlord. Such indemnity obligation shall survive the expiration or other termination of this Lease.

- 3.5. Warranty of Possession. Landlord warrants that it has good title to the Project and warrants that it has the right and authority to execute this Lease, and Tenant, upon payment of the required rents and subject to the terms, conditions, covenants and agreements contained in this Lease, shall have quiet possession of the Leased Premises during the Term of this Lease as well as any extension or renewal thereof. The foregoing notwithstanding, Landlord shall not be responsible for the acts or omissions of any other tenant or third party that may interfere with Tenant's use and enjoyment of the Leased Premises, but, upon written notice from Tenant identifying any such interference by other tenants or third parties, Landlord shall use best efforts to cooperate with Tenant in alleviating or remedying any such interference, provided that no such efforts will require Landlord to take any action in violation of any Laws or other agreements to which Landlord may be a party.
 - Inspection. Landlord or its authorized agents shall at any and all reasonable times upon at least twenty-four (24) hours' prior notice to Tenant, have the right to enter the Leased Premises (other than any rooms housing medical records or any MRI suites) to inspect the same, to supply janitorial service or any other service to be provided by Landlord, to alter, improve or repair the Leased Premises or any other portion of the Building, and to show the Leased Premises to prospective purchasers at any time or prospective tenants within the last 6 months of the Term. Tenant hereby waives any claim for damages for injury or inconvenience to or interference with Tenant's business, any loss of occupancy or use of the Leased Premises, and any other loss occasioned thereby. Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Leased Premises. Tenant shall not change Landlord's lock system or in any other manner prohibit Landlord from entering the Leased Premises. Landlord shall have the right to use any and all means which Landlord may deem proper to open any door in an emergency other than any rooms housing medical records or any MRI suites without liability therefor. Landlord acknowledges that its entering the MRI Suites without the consent (which shall not be unreasonably withheld) and accompaniment of Tenant may cause significant damage to the equipment located therein. Accordingly, Landlord shall only enter the MRI Suites or rooms within the Leased Premises containing medical records with the accompaniment of a representative of Tenant, and Tenant shall make available to Landlord a current list of Tenant representatives that Landlord may contact at night and on weekends for purposes of emergency inspections or entry into the Leased Premises. Further, if Landlord is unable to enter the MRI Suites or rooms within the Leased Premises containing medical records because of Landlord's conformity with the provisions of this Section 3.6, Landlord shall have no liability to Tenant whatsoever for any damages of any nature to any of Tenant's personal property located within the Leased Premises that arises out of Landlord's inability to access the MRI Suites or rooms within the Leased Premises containing medical records.

ARTICLE 4. <u>UTILITIES AND SERVICE</u>

4.1. Building Services. Landlord shall operate, maintain and make all necessary repairs (both structural and non-structural) to the part of the mechanical, gas, electrical, sanitary, heating, air conditioning, ventilating, elevator, plumbing, life safety and other service systems of the Building (collectively the "Building Systems") which provide service to the Leased Premises (but not to the

March 26, 2014 2:50pm

distribution portions of such Building Systems located within the Leased Premises) and the public portions of the Building, both exterior and interior, in conformance with the standards of owners of similar Class A multi-tenant medical buildings located in the Wolf River Corridor in Memphis, Tennessee. Landlord, at its expense, shall provide water for Leased Premises during the Term of this Lease. Electricity for the Leased Premises shall be separately metered, and paid directly by Tenant to the utility company furnishing such electrical utility services. Tenant shall pay all telephone, telecommunications, data and other similar charges. Landlord shall furnish Tenant hot and cold water at those points of supply provided for general use of other Tenants in the Building, central heating and air conditioning in season at temperatures and in amounts requested by Tenant as customarily required for outpatient imaging uses. HVAC and other operating systems will be operational and available to Tenant at all times, twenty-four (24) hours each day, seven (7) days per week, fifty-two (52) weeks per year, including holidays without any "after hours" charges. Landlord shall also provide routine maintenance, painting and electric lighting service for all public areas and special service areas of the Building in the manner and to the extent commensurate with the standards employed by owners of similar Class A multi-tenant medical buildings located in the Wolf River Corridor in Memphis, Tennessee. Landlord may, in its sole discretion, provide additional services not enumerated herein. Failure by Landlord to any extent to provide these defined services or any other services not enumerated, or any cessation thereof, other than as a result of the willful misconduct or gross negligence of Landlord, shall not render Landlord liable in any respect for damages to either person or property, be construed as an eviction of Tenant, work an abatement of rent or relieve Tenant from fulfillment of any covenant in this Lease. Should any of the Building Systems fail or for any cause cease to function properly, Landlord shall use reasonable diligence to repair the same promptly, but Tenant shall have no claim for rebate of Rent or Additional Rent on account of any such interruption in services occasioned from such repairs. Except for the willful misconduct or gross negligence of Landlord, Landlord shall not be liable to Tenant for any damage to person or property caused by defects in the Building Systems. Landlord reserves the right from time to time to make changes in the utilities and services provided by Landlord to the Building provided such utilities and services shall at all times be commensurate with standards employed by owners of similar Class A multi-tenant medical buildings located in the Wolf River Corridor in Memphis, Tennessee. Tenant shall have access to the Leased Premises twenty-four (24) hours per day, seven (7) days per week, fifty-two (52) weeks per year, including holidays.

- 4.2. Card Access System. A card access system shall control all entries to the Building and the Leased Premises. Such system may be customized, at Tenant's sole cost and expense, in order to suit Tenant's specific requirements.
- 4.3. Theft or Burglary. Landlord shall not be liable to Tenant or to any employee of Tenant for losses to property, including loss of trade secrets or other confidential information, or personal injury caused by criminal acts or entry by unauthorized persons into the Leased Premises or the Project. Landlord will promptly notify Tenant regarding any material incidents at the Building relating to crimes or the security of the tenants.
- 4.4. Janitorial Service. Landlord shall furnish janitorial services to the Leased Premises and public areas of the Building five (5) times per week during the Term of this Lease, excluding holidays. The scope of services may be adjusted as necessary by the Landlord. Landlord shall not provide janitorial service to kitchens or storage areas included in the Leased Premises. In the event

March 26, 2014 2:50pm

that Tenant should request any additional janitorial services which are above the standards of janitorial services presently being furnished in Class "A" office buildings in the Germantown, Tennessee market area, Tenant shall promptly pay all costs for such above standard janitorial services to Landlord.

- 4.5. Excessive Utility Consumption. Tenant shall pay all utility and other costs occasioned by electrodata processing machines, telephone equipment, computers and other equipment of high electrical consumption, including without limitation, at Landlord's election, the cost of installing, servicing and maintaining any special, additional and/or separate inside or outside wiring or lines, meters or submeters, transformers, poles, air conditioning, or the cost of any other wiring or lines, meters or submeters, transformers, poles, air conditioning, or power available equipment necessary to monitor and/or increase the amount or type of electricity or power available to the Leased Premises.
- 4.6. Window Coverings. Tenant, at its sole cost and expense, shall furnish and install window coverings on the interior side of all exterior windows of the Leased Premises in order to maintain a uniform exterior appearance, in accordance with specifications approved in writing by Landlord and consistent with all other window coverings of the Building; provided, however, that Tenant shall not be required to install any window coverings that would materially interfere with Tenant's sensitive medical equipment located within the Leased Premises. Tenant shall not remove or replace these window coverings or install any other window covering which would affect the exterior appearance of the Building. Tenant may install lined or unlined over draperies on the interior sides of the aforedescribed window coverings for interior appearance of the Building or transmission, provided such over draperies do not affect the exterior appearance of the Building or affect the operation of the Building's heating, ventilating and air conditioning systems.
 - 4.7. Charge for Service. All costs of Landlord for providing the services set forth in Article 4 (except those charges paid by Tenant pursuant to Section 4.5) shall be subject to the additional rent provisions in Section 2.2.

ARTICLE 5. REPAIRS AND MAINTENANCE

5.1. Landlord Repairs. Landlord shall not be required to make any improvements, replacements or repairs of any kind or character to the Leased Premises or the Project during the term of this Lease except as are set forth in this Section. Landlord shall maintain only the roof, foundation, parking and common areas, and the structural soundness of the exterior walls, doors, foundation, parking and other structures or equipment serving the Leased Premises and the Building Corridors, windows and other structures or equipment serving the Leased Premises and the Building Systems (but not to the distribution portions of such Building Systems located within the Leased Premises), in conformance with the standards of owners of similar Class A multi-tenant medical Premises), in conformance with the standards of owners of similar Class A multi-tenant medical buildings located in the Wolf River Corridor in Memphis, Tennessee. Landlord's cost of maintaining and repairing the items set forth in this Section are subject to the additional rent provisions in Section 2.2. Landlord shall not be liable to Tenant, except as expressly provided in this Lease, for any damage or inconvenience, and Tenant shall not be entitled to any abatement or reduction of Rent or Additional Rent by reason of any repairs, alterations, or additions made by Landlord under this Lease, unless such damage materially impairs Tenant's quiet enjoyment of the Leased Premises in the ordinary course of its business, and results from Landlord's negligence in the

March 26, 2014 2:50pm

performance of such repairs, alterations, or additions. If Landlord fails to perform any of its obligations hereunder, Landlord shall not be in default and Tenant shall not have any rights or remedies growing out of such failure unless Tenant gives Landlord written notice setting forth in reasonable detail the nature and extent of such failure and such failure is not cured within thirty (30) days following Landlord's receipt of such notice, or such longer period as may otherwise be provided herein; provided, however, if Landlord had actual knowledge of such failure or reasonably should have had such knowledge then there shall be no obligation for Tenant to provide notice hereunder. If have had such knowledge then there shall be no obligation for Tenant to provide notice hereunder. If such failure cannot reasonably be cured within thirty (30) days, the length for curing shall be extended as reasonably required. In no event shall Tenant's remedies for an alleged or actual failure to perform its obligations under this Section include the termination of this Lease.

- 5.2. Tenant Repairs. Tenant shall, at its own cost and expense, repair or replace any damage or injury to all or any part of the Leased Premises caused by any act or omission of Tenant or Tenant's agents, employees, invitees, licensees or visitors; provided, however, if Tenant fails to make the repairs or replacements promptly, Landlord may, at its option, make the repairs or replacements, and the costs of such repairs or replacements shall be charged to Tenant as additional rent and shall become payable by Tenant with the payment of the rent next due hereunder.
- 5.3. Request for Repairs. All requests for repairs or maintenance that are the responsibility of Landlord pursuant to any provision of this Lease must be made in writing to Landlord at the address in Section 1.5.
- 5.4. Tenant Damages. Tenant shall not allow any damage to be committed on any portion of the Leased Premises or Building, and at the termination of this Lease, by lapse of time or otherwise, Tenant shall deliver the Leased Premises to Landlord in as good condition as existed at the Commencement Date of this Lease, ordinary wear and tear excepted. The cost and expense of any repairs necessary to restore the condition of the Leased Premises from any damage committed by Tenant, its employees, agents, contractors or invitees shall be borne by Tenant.

ARTICLE 6. ALTERATIONS AND IMPROVEMENTS

- 6.1. Construction of Initial Tenant Improvements. The initial Tenant Improvements to the Leased Premises shall be constructed in accordance with the terms and conditions set forth in Exhibit "B". Landlord shall be responsible for completion and payment of the items described on Exhibit "B" and Tenant shall be responsible for completion and payment of all other items.
- **Improvements**. After completion of the initial Tenant Improvements, Tenant shall not make or allow to be made any structural or mechanical alterations, or any alterations, physical additions or improvements in or to the Leased Premises in excess of Fifty Thousand and No/100 Dollars (\$50,000) without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld. Any alterations, physical additions, or improvements to the Leased Premises permitted hereunder shall immediately become the property of Landlord. Upon the expiration or earlier termination of this Lease, Tenant shall remove from the Leased Premises its, personal property, trade fixtures and medical equipment and repair any damages caused by their removal.

March 26, 2014 2:50pm

Upon completion of any alterations, physical additions or improvements in or to the Leased Premises by Tenant, Tenant shall provide Landlord with "as built plans", copies of all construction contracts and proof of payment for all labor and materials.

Except for personal computers, facsimile machines, copiers and other similar office equipment and equipment consistent with an imaging center, Tenant shall not install within the Leased Premises any fixtures, equipment or other improvements until the plans and location thereof have been approved by Landlord. The location, weight and supporting devices for any libraries, central filing areas, safes and other heavy equipment shall in all cases be approved by Landlord prior to initial installation or any relocation. Landlord may prohibit any article, equipment or any other item not consistent with an imaging center that may exceed the load capacity of the Building from being brought into the Building.

other lien to be placed upon the Leased Premises or the Project and nothing in this Lease shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied, by inference or otherwise, to any person for the performance of any labor or the furnishing of any materials to the Leased Premises, or any part thereof, nor as giving Tenant any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to any mechanic's, materialman's or other lien against the Leased Premises or the Project. In the event any such lien is attached to the Leased Premises or the Project, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, obtain the release of or otherwise discharge the same. Any amount paid by Landlord for any of the aforesaid purposes shall be paid by Tenant to Landlord on demand as additional rent.

ARTICLE 7. CASUALTY AND INSURANCE

- 7.1. Substantial Destruction. If the Leased Premises should be totally destroyed by fire or other casualty, or if the Leased Premises should be damaged so that rebuilding cannot reasonably be completed within one hundred eighty (180) days after the date of written notification by Tenant to Landlord of the destruction (or two hundred seventy (270) days in the event of destruction because of earthquake), this Lease shall terminate and the rent shall be abated for the unexpired portion of the Lease, effective as of the date of the casualty.
- 7.2. Partial Destruction. If the Leased Premises should be partially damaged by fire or other casualty, and rebuilding or repairs can reasonably be completed within one hundred eighty (180) days from the date of written notification by Tenant to Landlord of the destruction (or two hundred seventy (270) days in the event of destruction because of earthquake), this Lease shall not terminate, and Landlord shall at its sole expense proceed with reasonable diligence to rebuild or repair the Building or other improvements to substantially the same condition in which they existed prior to the damage. If the Leased Premises are to be rebuilt or repaired and are untenantable in whole or in part following the damage, and the damage or destruction was not caused by act or negligence of Tenant, its agents, employees, invitees or those for whom Tenant is responsible, the negligence of Tenant, its agents, employees, invitees or those for whom Tenant is responsible, the negligence of the third Lease during the period for which the Leased Premises are untenantable shall rent payable under this Lease during the period for which the Leased Premises are untenantable shall be adjusted to such an extent as may be fair and reasonable under the circumstances. In the event

March 26, 2014 2:50pm

that Landlord fails to complete the necessary repairs or rebuilding within one hundred eighty (180) days from the date of written notification by Tenant to Landlord of the destruction (or two hundred seventy (270) days in the event of destruction because of earthquake), Tenant may at its option terminate this Lease by delivering written notice of termination to Landlord, whereupon all rights and obligations under this Lease shall cease to exist.

- 7.3. Property Insurance. Landlord shall obtain and keep in full force and effect insurance against loss or damage by fire and other casualty to the Building, including the Initial Improvements, as may be insurable under then available standard forms of "all risk" insurance Improvements, in an amount equal to one hundred percent (100%) of the replacement value thereof or in such lesser amount as will avoid co-insurance (including an "agreed amount" endorsement). Landlord shall at all times during the Term of this Lease also maintain commercial general liability insurance, and such other insurance with such types and in such amount as Landlord shall deem necessary or and such other insurance with such types and in such amount as Landlord shall deem necessary or advisable, provided, Landlord shall not be obligated in any way or manner to insure any personal advisable, provided, Landlord shall not be obligated in any way or supplies) of Tenant upon property (including, but not limited to, any furniture, machinery, goods or supplies) of Tenant upon or within the Leased Premises. Tenant shall have no right in or claim to the proceeds of any policy of insurance maintained by Landlord even though the cost of such insurance may be partially borne of insurance maintained Expenses. All insurance proceeds shall be utilized by Landlord in accordance with any mortgage instrument on the Project.
 - any and all right of recovery, claim, action or cause of action, against Tenant, its agents, officers and employees, for any loss or damage that may occur to the Leased Premises, improvements to the Building of which the Leased Premises are a part, or personal property within the Building, by reason of fire or other perils against which Landlord is provided protection by insurance required under this Lease. Tenant hereby waives and releases Landlord of and from any and all right of recovery, claim, Lease. Tenant hereby waives and releases Landlord, its agents, officers and employees, for any loss or damage action or cause of action, against Landlord, its agents, officers and employees, for any loss or damage action or cause of action, against Landlord and Tenant agree immediately to give their by insurance required under this Lease. Landlord and Tenant agree immediately to give their respective insurance companies which have issued policies of insurance covering all risk of direct physical loss, written notice of the terms of the mutual waivers contained in this Section, and to have the insurance policies properly endorsed, if necessary, to prevent the invalidation of the insurance coverages by reason of the waivers.
 - 7.5. Hold Harmless. Tenant indemnifies, defends, and holds Landlord harmless from and against any and all loss, cost, damage, or expense of any kind, including reasonable attorneys' fees, in any way arising out of claims or allegations:
 - (i) resulting from Tenant's breach or default under the terms or conditions of this Lease; and
 - (ii) for personal injury, bodily injury, death, or property damage for incidents occurring in or about the Leased Premises or Building caused in any way by the acts or omissions of Tenant, its agents, employees, contractors, or invitees.

March 26, 2014 2:50pm

When the claim is caused by the joint negligence or willful misconduct of Tenant and Landlord or Tenant and a third party unrelated to Tenant, except Tenant's agents, employees, or invitees, Tenant's duty to defend, indemnify, and hold Landlord harmless shall be in proportion to Tenant's allocable share of the joint negligence or willful misconduct.

Landlord indemnifies defends, and holds Tenant harmless from and against any and all loss, cost, damage, or expense of any kind, including reasonable attorneys' fees, in any way arising out of claims or allegations:

- (i) resulting from Landlord's breach or default under the terms or conditions of this Lease; and
- Lease; and

 (ii) for personal injury, bodily injury, death, or property damage for incidents occurring in or about the Leased Premises or Building caused in any way by the acts or omissions of Landlord, its agents, employees, contractors, or invitees.

When the claim is caused by the joint negligence or willful misconduct of Landlord and Tenant or Landlord and a third party unrelated to Landlord, except Landlord's agents, employees, or invitees, Landlord's duty to defend, indemnify, and hold Tenant harmless shall be in proportion to Landlord's allocable share of the joint negligence or willful misconduct.

- 7.6. Tenant's Insurance. At all times commencing on the Commencement Date, Tenant shall carry and maintain, at Tenant's sole cost and expense:
- (a) Commercial general liability insurance applicable to the Leased Premises and its appurtenances, including property damage on an occurrence basis with limits of not less than Five Million Dollars (\$5,000,000.00) combined single limit insuring Tenant against any liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all liability arising out of the ownership, use, occupancy or mainte
- attached thereto.

 (b) Professional liability insurance in such form and amount as Tenant deems reasonably necessary.
- (c) Workers' compensation insurance, as required by the State of Tennessee and in amounts as may be required by applicable statute, and employer's liability coverage of not less than Five Hundred Thousand Dollars (\$500,000) per occurrence.
- (d) Business interruption or loss of income insurance in an amount not less than twelve (12) months of Tenant's income and expenses.
- (e) Before any repairs, alterations, additions, improvements, or construction are undertaken by or on behalf of Tenant, Tenant shall carry and maintain, at its expense, or Tenant shall require any contractor performing work on the Leased Premises to carry and expense, or Tenant shall require any contractor performing work on the Leased Premises to carry and expense to Landlord, in addition to Workers' Compensation Insurance, All Risk

March 26, 2014 2:50pm

Builder's Risk Insurance in the amount of the full replacement cost of any alterations, additions or improvements and Commercial General Liability Insurance (including, without limitation, Contractor's Liability coverage, Contractual Liability coverage, Completed Operations coverage, and Automobile Liability coverage) written on an occurrence basis with a minimum combined single Automobile Liability coverage) written on an occurrence basis with a minimum combined single limit of Five Million Dollars (\$5,000,000.00) and adding "Landlord hereunder (or any successor thereto), and its respective members, principals, beneficiaries, partners, officers, directors, thereto), and its respective members, principals, beneficiaries, partners, officers, directors, employees, agents and any Mortgagee(s)", and other designees of Landlord as the interest of such designees appear, as additional insureds (collectively referred to as the "Additional Insureds").

Any company writing any insurance which Tenant is required to maintain or cause to be maintained pursuant to the terms of this Lease (all such insurance as well as any other insurance pertaining to the Leased Premises or the operation of Tenant's business therein being referred to as "Tenant's Insurance"), must have an A.M. Best rating of "A XII" or better and be licensed and qualified to do business in the state in which the Leased Premises are located. All policies evidencing Tenant's Insurance (except for workers' compensation and professional liability insurance) must specify Tenant as named insured and the Additional Insureds as additional insureds. Provided that the coverage afforded Landlord and any designees of Landlord is not reduced or otherwise adversely affected, all of Tenant's Insurance may be carried under a blanket policy, but on a per location basis, covering the Leased Premises and any other of Tenant's locations. In the event of the payment of any loss, Landlord shall be paid first by the insurance company for Landlord's loss. Tenant shall, no later than ten (10) days following the Commencement Date, and on each anniversary thereof during the Term, provide written requests to each company writing any policy of insurance required to be maintained by Tenant hereunder to contain an endorsement requiring the insurer(s) to provide Landlord with at least thirty (30) days' prior written notice of any change, cancellation, termination, or lapse of said insurance, failing which, Tenant shall itself provide such notice to Landlord. Copies of such requests shall concurrently be furnished to Landlord. Tenant shall be solely responsible for payment of premiums for all of Tenant's Insurance. Tenant shall deliver to Landlord at least fifteen (15) days prior to the time Tenant's Insurance is first required to be carried by Tenant, and upon renewals at least fifteen (15) days prior to the expiration of any such insurance coverage, certificates evidencing all policies procured by Tenant in compliance with its obligations under this Lease, each in a form reasonably satisfactory to Landlord. The limits of Tenant's Insurance do not in any manner limit Tenant's liability under this Lease.

Premises which will (1) violate the terms of any of Landlord's or Tenant's insurance policies; (2) prevent Landlord or Tenant from obtaining policies of insurance acceptable to Landlord or any mortgagees. If an increase in any insurance premiums paid by Landlord is caused by Tenant's use of the Leased Premises in a manner other than as set forth in Section 1.6, or if Tenant vacates the Leased Premises and causes an increase in such premiums, then Tenant shall pay as Additional Rent Leased Premises and causes an increase in such premiums, then Tenant shall pay as Additional Rent the amount of such increase to Landlord. If Tenant fails to obtain the insurance coverage required by this Lease, Landlord may, at its option, obtain such insurance for Tenant, and Tenant shall pay, as Additional Rent, the cost of all premiums thereon and all of Landlord's costs associated therewith.

March 26, 2014 2:50pm

ARTICLE 8. CONDEMNATION

- 8.1. Substantial Taking. If all or a substantial part of the Leased Premises are taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere eminent domain or by purchase in lieu thereof, and the taking would prevent or materially interfere eminent domain or by purchase in lieu thereof.
 - 8.2. Partial Taking. If a portion of the Leased Premises shall be taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain or by purchase in lieu thereof, and this Lease is not terminated as provided in Section 8.1 above, and allored shall at Landlord's sole risk and expense, restore and reconstruct the Building and other improvements on the Leased Premises to the extent necessary to make it reasonably tenantable. The improvements on the Leased Premises to the extent necessary to make it reasonably tenantable. The cost of Landlord's obligations hereunder shall be limited to the net proceeds of the condemnation award allocable to the Leased Premises that is actually received and retained by Landlord. The rent award allocable to the Leased Premises that is actually received and retained by Landlord. The rent payable under this Lease during the unexpired portion of the term shall be adjusted to such an extent as may be fair and reasonable under the circumstances. Tenant shall have no claim to the condemnation award or proceeds in lieu thereof.

ARTICLE 9. ASSIGNMENT OR SUBLEASE

- **9.1.** Landlord Assignment. Landlord shall have the right to sell, transfer or assign, in whole or in part, its rights and obligations under this Lease and in the Project. Any such sale, transfer or assignment shall operate to release Landlord from any and all liabilities under this Lease arising after the date of such sale, assignment or transfer.
- 9.2. Tenant Assignment. Tenant shall not assign, in whole or in part, this Lease, or allow it to be assigned, in whole or in part, by operation of law or otherwise (including without limitation by transfer of a majority interest of stock, merger, or dissolution, which transfer of majority interest of stock, merger or dissolution shall be deemed an assignment) or mortgage or pledge the same, or of stock, merger or dissolution shall be deemed an assignment) or mortgage or pledge the same, or sublet the Leased Premises, in whole or in part (all of the foregoing being referred to collectively as a sublet the Leased Premises, in whole or in part (all of the foregoing being referred to collectively as a "Transfer"), without the prior written consent of Landlord, and in no event shall any such Transfer "Transfer"), without the prior written consent of Landlord, and in no event shall any such Transfer of the Leased Premises or any portion thereof may assign or sublet the Leased Premises or any portion thereof may assign or sublet the Leased Premises or any portion thereof.
 - 9.3. Conditions of Assignment. If Tenant desires Landlord's consent to a Transfer, it shall so notify Landlord at least thirty (30) days in advance of the date on which Tenant desires to make such assignment or sublease. Tenant shall provide Landlord with a copy of the proposed assignment or sublease and such information as Landlord might request concerning the proposed subtenant, assignee or transferee ("Transferee") to allow Landlord to make informed judgments as to subtenant, assignee or transferee ("Transferee") and general desirability of the proposed Transferee.

March 26, 2014 2:50pm

Landlord shall not unreasonably withhold, condition or delay its consent to any proposed Transfer. Provided that Tenant is not then in default under this Lease beyond any applicable cure period, Tenant shall have the one-time right during the Term to assign this Lease to Baptist Memorial Health Care Corporation, a Tennessee not-for profit corporation, or a controlled affiliate of Baptist Memorial Health Care Corporation, subject to Landlord's approval based on the criteria set forth in Memorial Health Care Corporation, subject to Landlord's approval based on the criteria set forth in the following paragraph. In no event shall Tenant or any Transferee violate any exclusive use granted to any other tenant in the Project as of the date of this Lease or any proposed assignment by Tenant hereunder.

Without limitation as to other reasonable grounds for withholding consent, Landlord and Tenant agree that it shall be reasonable under this Lease and under any applicable law for Landlord to withhold consent to any proposed Transfer where one or more of the following apply: (a) Transferee is of a character or reputation or engaged in a business which is not consistent with the quality of the Building or would be a significantly less prestigious occupant of the Building than Tenant, (b) Transferee intends to use the Leased Premises for a use other than the Permitted Use described in Section 1.6 or other than another medical office use, or for purposes which are not permitted under the Lease, (c) Transferee's proposed use of the Leased Premises would require an excessive number of parking spaces for motor vehicles or would otherwise create traffic congestion and/or parking problems at the Project, (d) Transferee is either a governmental agency or instrumentality thereof, (e) Transferee is not a person of reasonable financial worth and/or financial stability in light of the responsibilities to be undertaken in connection with the Transfer on the date Landlord's consent to the Transfer is requested, (f) the proposed Transfer would cause a violation of another lease for space in the Building or would give another occupant of the Building a right to cancel its lease, (g) the terms of the proposed Transfer would allow the Transferee to exercise a right of renewal, right of expansion, right of first offer, or other similar right held by Tenant (or will allow the Transferee to occupy space leased by Tenant pursuant to any such right), (h) either the proposed Transferee, or any person or entity which directly or indirectly controls, is controlled by, or is under common control with, the proposed Transferee, (x) occupies space in the Building at the time of the request for consent, or (y) is negotiating with Landlord to lease space in the Building at such time, or (z) has negotiated with Landlord during the twelve (12) month period immediately preceding the request for the proposed Transfer, (i) the Transferee does not intend to occupy the entire Leased Premises or conduct its business therefrom for a substantial portion of the term of the Transfer, or (j) the proposed Transferee does not have a net worth (not including goodwill as an asset) computed in accordance with generally accepted accounting principles ("Net Worth") at least equal to the greater of (A) the Net Worth of Tenant immediately prior to the Transfer, or (B) the Net Worth of Tenant on the date of this Lease. Within ten (10) days after Landlord's receipt of Tenant's request for consent to the proposed Transfer and all required information concerning the proposed Transferee, Landlord shall have the following options: (1) cancel this Lease as to the Leased Premises or portion thereof involved in the proposed Transfer; (2) consent to the proposed Transfer, and, if the rent due and payable by Transferee under any such permitted Transfer (or a combination of the rent payable under such Transfer plus any bonus or any other consideration or any payment incident thereto) exceeds the rent payable under this Lease for such space, Tenant shall pay to Landlord all such excess rent and other excess consideration within ten (10) days following receipt thereof by Tenant; or (3) refuse, to consent to the proposed Transfer, which refusal shall be deemed to have been exercised unless Landlord gives Tenant written notice providing otherwise. Upon the occurrence and continuance of

March 26, 2014 2:50pm

an event of default, if all or any part of the Leased Premises have been transferred pursuant to a Transfer to which Landlord consented, Landlord, in addition to any other remedies provided by this Lease or provided by law, may, at its option, collect directly from the Transferee all rents becoming due to Tenant by reason of the Transfer. Any collection directly by Landlord from the Transferee shall not be construed to constitute a novation or a release of Tenant or any guarantor from the shall not performance of its obligations under this Lease. Tenant shall pay to Landlord a nonfurther performance of its obligations under this Lease. Tenant shall pay to Landlord a nonfurther performance of the Thousand Five Hundred and No/100 Dollars (\$1,500) to defray the administrative costs associated with any proposed transfer or assignment hereunder. In addition, Tenant shall pay within five (5) days of demand for payment therefor all professional fees (including, without limitation, attorneys', accountants', architects', engineers' and consultants fees) and expenses incurred by Landlord or its manager in connection with the review of Tenant's proposed Transfer and in the preparation and/or review of any documentation required by the proposed Transfer. The professional fees and expenses incurred as described herein will be due and payable whether or not Landlord consents to the proposed Transfer as requested by Tenant.

- Subordination. Tenant accepts this Lease subject and subordinate to any recorded mortgage or deed of trust lien presently existing or hereafter created upon the Building or Project and to all existing recorded restrictions, covenants, easements and agreements with respect to the Building or Project. Landlord is hereby irrevocably vested with full power and authority to subordinate Tenant's interest under this Lease to any mortgage or deed of trust lien hereafter placed on the Leased Premises, and Tenant agrees upon demand to execute additional instruments subordinating this Lease as Landlord may require. If the interests of Landlord under this Lease shall be transferred by reason of foreclosure or other proceedings for enforcement of any mortgage or deed of trust lien on the Leased Premises, Tenant shall be bound to the transferee (sometimes called the "Purchaser") at the option of the Purchaser, under the terms, covenants and conditions of this Lease for the balance of the term remaining, including any extensions or renewals, with the same force and effect as if the Purchaser were Landlord under this Lease, and, if requested by the Purchaser, Tenant agrees to attorn to the Purchaser, including the mortgagee under any such mortgage if it be the Purchaser, as its Landlord. The foregoing notwithstanding, Landlord shall use commercially reasonable efforts to cause any present or future holder of any mortgage or deed of trust encumbering the Building or Project to enter into a commercially reasonable subordination, non-disturbance, and attornment agreement with Tenant which will provide that Tenant's occupancy under this Lease shall not be disturbed so long as no event of default under this Lease by Tenant has occurred.
 - 9.5. Estoppel Certificates. Tenant agrees to furnish, from time to time, within ten (10) business days after receipt of a request from Landlord or Landlord's mortgagee, a statement certifying, if applicable, the following: Tenant is in possession of the Leased Premises; the Leased Premises are acceptable; the Lease is in full force and effect; the Lease is unmodified; Tenant claims no present charge, lien, or claim of offset against rent; the rent is paid for the current month, but is not prepaid for more than one (1) month and will not be prepaid for more than one (1) month in advance; there is no existing default by reason of some act or omission by Landlord; and such other matters as may be reasonably required by Landlord or Landlord's mortgagee. Tenant's failure to deliver such statement, in addition to being a default under this Lease, shall be deemed to establish conclusively that this Lease is in full force and effect except as declared by Landlord, that Landlord is not in default of any of its obligations under this Lease, and that Landlord has not received more than one month's rent in advance.

March 26, 2014 2:50pm

ARTICLE 10. LIENS

ARTICLE 11. DEFAULT AND REMEDIES

- 11.1. Default by Tenant. The following shall be deemed to be events of default by Tenant under this Lease: (1) Tenant shall fail to pay when due any installment of rent or any other payment required pursuant to this Lease within five days when due (provided that this five-day grace period may only be used once in any consecutive 12-month period during the Term); (2) Tenant shall abandon any substantial portion of the Leased Premises; (3) Tenant shall fail to comply with any term, provision or covenant of this Lease, other than the payment of rent, and the failure is not cured within thirty (30) after written notice to Tenant (provided however, if such failure reasonably cannot be cured within 30 days the length of time for such cure shall be extended as reasonably required, but in any event not to exceed ninety (90) days after written notice to Tenant); (4) Tenant shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law (provided that Tenant shall have 60 days to dismiss any involuntary bankruptcy petition) or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all of the assets of Tenant, or Tenant shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors; or (5) Tenant shall do or permit to be done any act which results in a lien being filed against the Leased Premises or the Building and/or Project of which the Leased Premises are a part and such lien is not released with thirty (30) days.
 - 11.2. Remedies for Tenant's Default. Upon the occurrence of any event of default set forth in this Lease, Landlord shall have the option to pursue any one or more of the remedies set forth herein, after providing Tenant with notice of default and a reasonable opportunity to cure, if required under Section 11.1. All of the remedies of Landlord shall be cumulative with each other and all other remedies available at law or in equity. The exercise of any right by Landlord shall not relieve Tenant from the obligation to make any rental payments or to fulfill all covenants required by this Lease. (1) Landlord may enter upon and take possession of the Leased Premises, by force or otherwise, and lock out, expel or remove Tenant and any other person who may be occupying all or any part of the Leased Premises without being liable for any claim for damages, use and enjoy the Leased Premises or relet the Leased Premises on behalf of Tenant and receive the rent directly by reason of the reletting. Tenant agrees to pay Landlord on demand any deficiency that may arise by reason of any reletting of the Leased Premises; further, Tenant agrees to reimburse Landlord for reasonable expenditures made by it in order to relet the Leased Premises, including, but not limited to, remodeling and repair costs. (2) Landlord may enter upon the Leased Premises, by force or otherwise, without being liable for any claim for damages, and do whatever Tenant is obligated to do under the terms of this Lease. Tenant agrees to reimburse Landlord on demand for reasonable expenses which Landlord may incur in effecting compliance with Tenant's obligations under this Lease; further, Tenant agrees that Landlord shall not be liable for any damages resulting to Tenant from effecting compliance with Tenant's obligations under this Lease caused by the negligence of Landlord or otherwise. (3) Landlord may terminate this Lease, in which event Tenant shall immediately surrender the Leased Premises to Landlord, and if Tenant fails to surrender the Leased Premises, Landlord may, without prejudice to any other remedy which it may have for possession or

March 26, 2014 2:50pm

arrearages in rent, enter upon and take possession of the Leased Premises in accordance with applicable Laws. Upon termination of Tenant's right of possession or upon termination of the Lease, Tenant throughout the remaining Term will pay Landlord, no later than the last day of each month during the Term, the then-current excess, if any, of the sum of the unpaid rentals and costs to Landlord resulting from such default by Tenant, over the proceeds received by Landlord from reletting, if any. Landlord shall use reasonable efforts to lease the Leased Premises on terms acceptable to Landlord. Landlord will be the sole judge as to whether or not a proposed tenant is suitable and acceptable. Any excess rent or sums received from renting the Leased Premises by Landlord as a result of Tenant's default will remain the sole property of Landlord. In addition to all other damages, Tenant will also pay to Landlord its "Cost of Reletting" which includes, but is not limited to, all reasonable costs and expenses incurred by Landlord for any repairs, maintenance, changes, alterations and improvements to the Leased Premises (whether to prevent damage or to prepare the Leased Premises for reletting), brokerage commissions, advertising costs, attorneys' fees, economic incentives given to a replacement tenant to enter into a lease, and the cost of collecting rent from replacement tenants. Notwithstanding anything contained in this Lease to the contrary, this Lease may be terminated by Landlord only by mailing or delivering written notice of such termination to Tenant, and no other act or omission of Landlord shall be construed as a termination of this Lease.

ARTICLE 12. DEFINITIONS

- 12.1. Abandon. "Abandon" means the vacating of all or a substantial portion of the Leased Premises by Tenant, whether or not Tenant is in default of the rental payments due under this Lease.
- 12.2. Act of God or Force Majeure. An "act of God" or "force majeure" is defined for purposes of this Lease as strikes, lockouts, sitdowns, material or labor restrictions by any governmental authority, unusual transportation delays, riots, floods, washouts, explosions, earthquakes, fire, storms, weather (including wet grounds or inclement weather which prevents construction), acts of the public enemy, wars, insurrections and any other cause not reasonably within the control of Landlord.
- 12.3. Building or Project. "Building" or "Project" as used in this Lease means the Building and/or Project described in Section 1.2, including the Leased Premises, infrastructure, improvements, and the land upon which the Building or Project is situated.
- 12.4. Commencement Date. "Commencement Date" shall be the date set forth in Section 1.3 and shall not be delayed due to either the existence of Punch List items or a Tenant Delay. The Commencement Date shall constitute the commencement of the Term of this Lease for all purposes, whether or not Tenant has actually taken possession.

ARTICLE 13. MISCELLANEOUS

13.1. Waiver. Failure of Landlord to declare an event of default immediately upon its occurrence, or delay in taking any action in connection with an event of default, shall not constitute a

March 26, 2014 2:50pm

waiver of the default, but Landlord shall have the right to declare the default at any time and take such action as is lawful or authorized under this Lease. Pursuit of any one or more of the remedies set forth in Article 11 above shall not preclude pursuit of any one or more of the other remedies provided elsewhere in this Lease or provided by law, nor shall pursuit of any remedy constitute forfeiture or waiver of any rent or damages accruing to Landlord by reason of the violation of any of the terms, provisions or covenants of this Lease. Failure by Landlord to enforce one or more of the remedies provided upon an event of default shall not be deemed or construed to constitute a waiver of the default or of any other violation or breach of any of the terms, provisions and covenants contained in this Lease. No entry by Landlord of the Leased Premises shall be deemed to absolve or discharge Tenant from liability hereunder.

- 13.2. Act of God. Landlord shall not be required to perform any covenant or obligation in this Lease, or be liable in damages to Tenant, so long as the performance or non-performance of the covenant or obligation is delayed, caused or prevented by an act of God, force majeure or by Tenant.
- 13.3. Attorney's Fees. In the event Tenant defaults in the performance of any of the terms, covenants, agreements or conditions contained in this Lease and Landlord places in the hands of an attorney the enforcement of all or any part of this Lease, the collection of any rent due or to become due or recovery of the possession of the Leased Premises, Tenant agrees to pay Landlord's costs of collection, including reasonable attorney's fees for the services of the attorney, whether suit is actually filed or not.
- 13.4. Successors. Subject to the restriction set forth in Section 9.2, this Lease shall be binding upon and inure to the benefit of Landlord and Tenant and their respective, successors and assigns. It is hereby covenanted and agreed that in the event of a sale, transfer or assignment of the Building, Project or Leased Premises by Landlord, this Lease nevertheless shall remain unimpaired and in full force and effect, and Tenant hereunder agrees to attorn to the successor of Landlord's and in full force and such successor shall be the Landlord hereunder only for any and all liabilities under this Lease arising after the date of such sale, assignment or transfer.
- 13.5. Rent Tax. If applicable in the jurisdiction where the Leased Premises are situated, Tenant shall pay and be liable for all rental, sales and use taxes or other similar taxes, if any, levied or imposed by any city, state, county or other governmental body having authority, such payments to be in addition to all other payments required to be paid to Landlord by Tenant under the terms of this Lease. Any such payment shall be paid concurrently with the payment of the rent, additional rent, Operating Expenses or other charge upon which the tax is based as set forth above.
- 13.6. Captions. The captions appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of any Section.
- 13.7. Notice. All rent and other payments required to be made by Tenant shall be payable to Landlord at the address set forth in Section 1.5, or at any other address within the United States as Landlord may specify from time to time by written notice. All payments required to be made by Landlord to Tenant shall be payable to Tenant at the address set forth in Section 1.5, or at any other address within the United States as Tenant may specify from time to time by written notice. Any notice or document required or permitted to be delivered by the terms of this Lease shall be (a)

March 26, 2014 2:50pm

deemed to be delivered (whether or not actually received) two days after being deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, or (b) deemed to be delivered when hand-delivered to the intended addressee or delivered to the intended addressee by nationally recognized overnight courier service, addressed to either party at the respective addresses set forth in Section 1.5, or at any other address within the United States as Landlord or Tenant may specify from time to time by written notice. In no event shall notice by facsimile transmission be proper notice under the terms of this Lease.

- 13.8. Submission of Lease. Submission of this Lease to Tenant for signature does not constitute a reservation of space or an option to lease. This Lease is not effective until execution by and delivery to both Landlord and Tenant.
- 13.9. Severability. If any provision of this Lease or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Lease and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
- 13.10. Landlord's Liability. If Landlord shall be in default under this Lease and, if as a consequence of such default, Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the right, title and interest of Landlord in the Building as the same may then be encumbered and neither Landlord nor any person or entity comprising Landlord shall be liable for any deficiency. In no event shall Tenant have the right to levy execution against any property of Landlord nor any person or entity comprising Landlord other than its interest in the Project as herein expressly provided.
- 13.11. Indemnity. Landlord agrees to indemnify and hold harmless Tenant from and against any liability or claim, whether meritorious or not, arising with respect to any broker whose claim arises by, through or on behalf of Landlord. Tenant agrees to indemnify and hold harmless Landlord from and against any liability or claim, whether meritorious or not, arising with respect to any broker whose claim arises by, through or on behalf of Tenant.
- 13.12. Financials. At Landlord's request from time to time (but no more than twice in any given calendar year during the Term, unless an event of default has occurred and is continuing, in which case such limit shall not apply) Tenant shall furnish Landlord with true and complete copies of its most recent annual and quarterly financial statements prepared by Tenant or Tenant's accountants and any other financial information or summaries that Tenant typically provides to its lenders or shareholders. If the financial statements are not prepared by certified public accountants, Tenant's chief financial officer shall certify to Landlord that such financial statements are true, correct, and complete as of the date thereof.
- 13.13. Arbitration. Any dispute, claim or controversy arising out of or relating in any manner to the Tenant Improvements, as described in Section 6.1 hereinabove, shall be determined by arbitration in Memphis, Tennessee, before such arbitrator as may be agreed upon in writing by Landlord and Tenant. The arbitration shall be administered by the arbitrator in accordance the Commercial Arbitration Rules of the American Arbitration Association (including the Optional Rules for Emergency Measures of Protection). Judgment on the award rendered by the arbitrator

March 26, 2014 2:50pm

may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The arbitrator may, in the award, allocate all or part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party.

- 13.14. Short Form Lease. This Lease shall not be recorded, but the parties agree, at the request of either of them, to execute a Short Form Lease for recording, containing the name of the parties, the legal description, and the term of the Lease.
- 13.15. Brokerage. Tenant warrants and represents that it has had no dealings with any broker in connection with the negotiation or execution of this Lease other than Tenant's Broker, Foster Realty and Landlord's Broker, Ford Jarratt Realty and Development Co., Inc. Landlord's Broker represents Landlord's interests in connection with this transaction and shall be paid by Landlord for its services pursuant to a separate, written agreement fully executed by Landlord's Broker and Landlord prior to full execution of this Lease. Tenant's Broker represents Tenant's Broker and connection with this transaction and shall be paid by Landlord for its services pursuant to a separate, written agreement fully executed by Tenant's Broker and Landlord prior to full execution of this Lease. Other than Foster Realty, Landlord will not be responsible for, and Tenant will indemnify, defend, and hold Landlord harmless from and against, any brokerage or leasing commission or finder's fee claimed by any party arising by, through or under Tenant in connection with this Lease.

ARTICLE 14. AMENDMENT AND LIMITATION OF WARRANTIES

- 14.1. Entire Agreement. IT IS EXPRESSLY AGREED BY TENANT, AS A MATERIAL CONSIDERATION FOR THE EXECUTION OF THIS LEASE, THAT THIS LEASE, WITH THE SPECIFIC REFERENCES TO WRITTEN EXTRINSIC DOCUMENTS, IS THE ENTIRE AGREEMENT OF THE PARTIES; THAT THERE ARE, AND WERE, NO VERBAL REPRESENTATIONS, WARRANTIES, UNDERSTANDINGS, STIPULATIONS, AGREEMENTS OR PROMISES PERTAINING TO THIS LEASE OR TO THE EXPRESSLY MENTIONED WRITTEN EXTRINSIC DOCUMENTS NOT INCORPORATED IN WRITING IN THIS LEASE.
- 14.2. Amendment. THIS LEASE MAY NOT BE ALTERED, WAIVED, AMENDED OR EXTENDED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY LANDLORD AND TENANT.
- 14.3. Limitation of Warranties. LANDLORD AND TENANT EXPRESSLY AGREE THAT THERE ARE AND SHALL BE NO IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THOSE EXPRESSLY SET FORTH IN THIS LEASE.

March 26, 2014 2:50pm

ARTICLE 15. OTHER PROVISIONS

- 15.1. Rooftop Equipment. Tenant may install and maintain, at its sole cost and expense, during the initial term of this Lease and any extension or renewal thereof cellular communications equipment and chillers for MRI equipment on the roof of the Building (the "Roof Equipment") at such location as may be approved in writing by Landlord. Tenant may use the Roof Equipment in connection with the operation of its business, as permitted by Section 1.6 of this Lease. Tenant shall submit to Landlord for its written approval (which approval shall not be unreasonably withheld) and for the approval of the City of Germantown, Tennessee (the "City"), detailed plans and specifications for the Roof Equipment showing its proposed size, location, design and screening. After the written approval of Landlord and the City have been received, the Roof Equipment may be installed and maintained strictly in accordance with such plans and specifications, at Tenant's sole cost and expense, by a contractor selected by Tenant and approved in writing by Landlord, which approval shall not be unreasonably withheld. Under no circumstances shall the Roof Equipment penetrate the roof of the Building, impair the structural integrity of the roof of the Building, invalidate any roof warranty, interfere with the Building or its systems, constitute a nuisance, interfere with any roof uses granted to others, or violate any applicable laws, ordinances, regulations or restrictions. The Roof Equipment must be properly screened in order that it is not visible from the exterior of the Building or the perimeter of the Project. Landlord makes no representations or warranties whatsoever regarding whether the installation and maintenance of the Roof Equipment is permitted by applicable laws, ordinances, regulations and restrictions. Tenant shall bear all costs and expenses of maintaining and repairing the Roof Equipment. Tenant shall be responsible for any death, personal injury or property damage caused by the Roof Equipment and shall indemnify and hold harmless Landlord from any and all such liabilities, including, but not limited to, attorneys' fees and expenses. Tenant shall maintain such insurance with respect to the Roof Equipment as may be reasonably required by Landlord. Upon expiration, assignment, transfer and/or termination of this Lease and, if requested by Landlord, Tenant shall, at its sole cost and expense, cause the Roof Equipment to be removed by a contractor approved in writing by Landlord (which approval shall not be unreasonably withheld), and Tenant shall repair, at Tenant's sole expense, any damage resulting from removal of the Roof Equipment.
 - 15.2. Right of First Refusal Space. Landlord grants to Tenant a one-time right of first refusal on any adjacent and contiguous space to the Leased Premises on the following terms:
 - (1) Upon Landlord's receipt of an acceptable third party offer ("Third Party Offer") to lease any space in the Building which is adjacent and contiguous to the Leased Premises, Landlord shall offer, in writing, such adjacent and contiguous space the Tenant on the same terms and conditions as contained in the Third Party Offer.
 - (2) Upon Tenant's receipt of the Landlord's written offer, Tenant shall have fifteen business (15) days to accept or reject, in writing to Landlord, the Landlord's written offer on the same terms and conditions as contained in the Third Party Offer.

March 26, 2014 2:50pm

- (3) Landlord's failure to receive Tenant's written acceptance or rejection as required above shall constitute Tenant's rejection of Landlord's offer and Landlord shall be permitted to lease such space to the third party in accordance with the terms of the Third Party Offer.
- 15.3. Renewal Option. If, at the end of the primary term of this Lease or at the end of the first Renewal Term (as applicable), Tenant is not in default in any of the terms, conditions or covenants of this Lease after any required notice and expiration of any applicable cure period and Tenant remains in occupancy of the entire Leased Premises, Tenant, but not any assignee or subtenant of Tenant, is hereby granted an option to renew this Lease for two (2) additional terms of sixty (60) months each (each a "Renewal Term") upon the same terms and conditions contained in this Lease, including payment of additional rent, with the following exceptions:
- (1) The exercise of a Renewal Term will contain no further renewal options unless specifically provided herein or expressly granted by Landlord in writing; and
- amount equal to one hundred two percent (102%) of the monthly Base Rent for the preceding year of this Lease and the monthly Base Rent for each succeeding year of a Renewal Term shall be an amount equal to one hundred two percent (102%) of the monthly Base Rent for the immediately amount equal to one hundred two percent (102%) of the monthly Base Rent for the immediately preceding year. Landlord shall provide such tenant finish allowance as reasonably necessary to permit Tenant to update the paint and carpet within the Leased Premises prior to the commencement of any Renewal Term, in each case consistent with the standards of owners of similar Class A multi-tenant medical buildings located in the Wolf River Corridor in Memphis, Tennessee.

Tenant may exercise a Renewal Option by written notice of exercise given to Landlord no later than one hundred eighty (180) days prior to the expiration date of the primary term of this Lease or a Renewal Term. Failure of Tenant to give to Landlord written notice of the exercise of the Renewal Option no later than one hundred eighty (180) days prior to the expiration of the primary term of this Lease or a Renewal Term shall automatically terminate the Renewal Option pursuant to this Section 15.3.

- 15.4. Parking. While Tenant is occupying the Leased Premises and is not in default, Tenant shall have the right in common with other tenants to use the parking spaces in the Building's parking facilities, subject to any reasonable parking rules and regulations promulgated by Landlord from time to time. Landlord shall designate for the sole use and benefit of Tenant and its customers and invitees four (4) reserved parking spaces for Tenant at the location set forth on the site plan attached as Exhibit D. Subject to regulatory requirements, Landlord shall further provide for Tenant at mutually agreed upon location on the parking facilities for temporary parking of Tenant's exterior amutually agreed upon location on the parking facilities for temporary parking of Tenant's exterior mobile imaging vehicle in the event Tenant requires excess or additional capacity for its business conducted within the Leased Premises. To the extent Landlord requires additional paving or utility connections for the mobile imaging vehicle, Tenant shall reimburse Landlord the reasonable costs thereof and at termination or expiration of this Lease, Tenant shall be financially responsible for any costs incurred by Landlord in the removal or any additional paving.
 - 15.5. Exclusivity. While Tenant (and not any Transferee of Tenant) is occupying the entire Leased Premises, and is not in default of any term or condition under this Lease beyond any

March 26, 2014 2:50pm

applicable cure period, Landlord agrees to not lease any part of the Project to another person, firm, or entity, whose primary business is or will be medical imaging utilizing CT or MRI technology. Tenant acknowledges and agrees that other tenants of the Project may now or in the future have, or require, ancillary uses of imaging technology in connection with their primary businesses, and Tenant agrees that such ancillary uses of imaging technology by other tenants of the Project shall not be deemed a violation of this Section 15.5.

- 15.6. Prohibited Uses. While Tenant is occupying the Leased Premises, Landlord shall not lease or permit the sublease of any part of the Project for any of the following activities: Church or place of worship, school, adult entertainment (as that term, or any substantially similar term, is now place of worship, school, adult entertainment (as that term, or any substantially similar term, is now place of worship, school, adult entertainment (as that term, or any substantially similar term, is now parlor, off-track betting parlor, any public or private nuisance, any noise or sound that is parlor, off-track betting parlor, any public or private nuisance, any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness, any obnoxious odor, any noxious, toxic, caustic, or corrosive fuel or gas (except, however, that during initial and any noxious, toxic, caustic, or corrosive fuel or gas (except, however, that during initial and any noxious, toxic, caustic, or corrosive fuel or gas (except, however, that during initial and any noxious, toxic, caustic, or corrosive fuel or gas (except, however, that during initial and any noxious, toxic, caustic, or corrosive fuel or gas (except, however, that during initial and any noxious, toxic, caustic or temporarily stored on the subsequent development of the Project, such materials may be used or temporarily stored on the subsequent development of the Project, such materials may be used or temporarily stored on the subsequent development of the Project, such materials may be used or temporarily stored on the subsequent development of the Project, such materials may be used or temporarily stored on the subsequent development of the Project, such materials may be used or temporarily stored on the subsequent development of the Project, such materials may be used or temporarily stored on the subsequent development of the Project of the Proje
 - grants to Tenant a one hundred twenty (120) day period commencing on the date of mutual execution hereof ("Contingency Period") to obtain a Certificate of Need ("CON") from the State of Tennessee hereof ("Contingency Period") to obtain a Certificate of Need ("CON") from the State of Tennessee hereof ("Contingency Period") to obtain a Certificate of Need ("CON") from the State of Tennessee hereof ("Contingency Period") to obtain a Certificate of Need ("CON") from the State of Tennessee hereof ("Contingency Period") and the Leased Premises. Tenant agrees to promptly apply for and to permit Tenant's business in the Leased Premises. Tenant agrees to promptly apply for and the payment and No/100 Dollars (\$5,000.00) on the day of execution of this Lease and on the same day Thousand and No/100 Dollars (\$5,000.00) on the day of execution of this Lease and on the same day of each month during the Contingency Period. In the event Tenant procures the CON, then this condition precedent will be considered satisfied and the payments made by Tenant to Landlord to the Base Rent first due under this Lease. In the during the Contingency Period shall be credited to the Base Rent first due under this Lease. In the event Tenant does not procure the CON during the Contingency Period, Tenant may, at its election, event Tenant does not procure the CON during the Contingency Period, Tenant may, at its election, event Tenant does not procure to Landlord, and in such event, the monthly payments made by terminate this Lease by written notice to Landlord, and in such event, the monthly payments made by terminate this Lease by written notice to Landlord, and in such event, the monthly payments made by terminate this Lease by written notice to Landlord, and in such event, the monthly payments made by terminate this Lease by written notice to Landlord, and in such event, the monthly payments made by terminate this Lease by written notice to Landlord, and in such event, the monthly payments made by terminate this Lease by written notice to Lan
 - 15.8. Entire Agreement. No oral statements or prior written material not specifically incorporated herein shall be of any force or effect. Tenant agrees that in entering into this Lease and accepting the Leased Premises, it relies solely upon the representations and agreements contained in this Lease, the exhibits attached hereto and the written agreements, if any, executed this Lease, the exhibits attached hereto and the Exhibits which are attached hereto and a contemporaneously herewith. This Lease, including the Exhibits which are attached hereto and a part hereof, constitutes the entire agreement of the parties and shall in no way be conditioned, modified or supplemented except by a written agreement executed by both parties.

March 26, 2014 2:50pm

[SIGNATURE PAGE TO FOLLOW]

March 26, 2014 2:50pm

WITNESS WHEREOF, this Office Leavernessly provided herein, all provisions shall, 2014.	ase Agreement is executed and, except as otherwise be effective, as of the day of
LANDLORD: CYPRESS REALTY HOLDINGS	TENANT: WEST TENNESSEE IMAGING, LLC a Tennessee limited liability company
By: Price D. Ford, Sr. Chief Manager	By:Cannon King Chief Manager

Price D. Ford, SIOR, CCIM
Cypress Realty Holdings Company
700 Colonial Road, Suite 100
Memphis, TN 38117
(901) 682-7606 - Phone
(901) 682-7992 - Fax
pford@cypressfund.com

STATE OF TENNESSEE COUNTY OF SHELBY))
qualified, personally appeared Price to me on the basis of satisfactory Chief Manager of Cypress Realty I the within named bargainor, and the the foregoing instrument for the	within and for said State and County, duly commissioned and e D. Ford, Sr., with whom I am personally acquainted (or proved evidence), and who upon oath acknowledged himself to be the Holdings Company II, LLC, a Delaware limited liability company, at he as such Chief Manager being authorized so to do, executed purposes therein contained by signing the name of the limited nief Manager. Official Seal at office this 12 day of 1000 cm.
2014.	The state of the s
My Commission Expires:	STATE OF SHEED OF Expires October 2.
STATE OF TENNESSEE COUNTY OF SHELBY)
acquainted (or proved to me acknowledged himself to be the	igned Notary Public in and for the State and County aforesaid, duly ersonally appeared Cannon King, with whom I am personally on the basis of satisfactory evidence) and who, upon oath, Chief Manager of West Tennessee Imaging, LLC, the within named ability company, and that he as such officer, being duly authorized instrument for the purposes therein contained, by signing the name officer.
TIGG hand and	Official Seal at office this day of,
2014.	
	Notary Public
My Commission Expires:	

WITNESS WHEREOF, this Office L expressly provided herein, all provisions shall MARCH., 2014.	ease Agreement is executed and, except as otherwise labeling to the day of
LANDLORD:	TENANT:
CYPRESS REALTY HOLDINGS COMPANY II, LLC,	WEST TENNESSEE IMAGING, LLC a Tennessee limited liability company
a Delaware limited liability company	By:
By: Price D. Ford, Sr.	Cannon King Chief Manager

STATE OF TENNESSEE COUNTY OF SHELBY)			
Before me, a Notary Public v qualified, personally appeared Price I to me on the basis of satisfactory ev Chief Manager of Cypress Realty Hol the within named bargainor, and that the foregoing instrument for the pur liability company by himself as Chief	D. Ford, Sr., with idence), and who ldings Company he as such Chief poses therein co	whom I am per o upon oath ac II, LLC, a Dela Manager being	rsonally acquainted knowledged himsel ware limited liability gauthorized so to do	(or proved of to be the occurrency occurrency
WITNESS my hand and Office 2014.	cial Seal at offic	e this da	ay of	
	-	Notary I	Public	
My Commission Expires:		·		
STATE OF TENNESSEE COUNTY OF SHELBY WILLIAMSON BEFORE ME, the undersigned commissioned and qualified, person acquainted (or proved to me on the acknowledged himself to be the Chief bargainor, a Tennessee limited liability so to do, executed the foregoing instrute of the company himself as such office WITNESS my hand and Official 2014. My Commission Expires:	ally appeared Che basis of sati Manager of Westy company, and to ment for the purper.	annon King, isfactory evided to Tennessee Im hat he as such cooses therein Cooses the Cooses therein Cooses the Cooses the Cooses the Cooses the Cooses the	with whom I am pence) and who, up aging, LLC, the with officer, being duly a ontained, by signing of CCC	personally pon oath, hin named authorized the name

March 26, 2014 2:50pm

SCHEDULE 3.3

OFFICE RULES AND REGULATIONS

- Landlord agrees to furnish Tenant two keys without charge. Additional keys will be furnished at a nominal charge. Tenant shall not change locks or install additional locks on doors without prior written consent of Landlord. Tenant shall not make or cause to be made duplicates of keys procured from Landlord without prior approval of Landlord. All keys to Leased Premises shall be surrendered to Landlord upon termination of this Lease.
- 2. Tenant will refer all contractors, contractor's representatives and installation technicians rendering any service on or to the Leased Premises for Tenant to Landlord for Landlord's approval before performance of any contractual service. Tenant's contractors and installation technicians shall comply with Landlord's rules and regulations pertaining to construction and installation. This provision shall apply to all work performed on or about the Leased Premises or Project, including installation of telephones, telegraph equipment, electrical devices and attachments and installations of any nature affecting floors, walls, woodwork, trim, windows, ceilings and equipment or any other physical portion of the Leased Premises or Project.
- 3. Tenant shall not at any time occupy any part of the Leased Premises or Project as sleeping or lodging quarters.
- 4. Tenant shall not place, install or operate on the Leased Premises or in any part of the Building any stove without written consent of Landlord.
- 5. Landlord will not be responsible for lost or stolen personal property, equipment, money or jewelry from the Leased Premises or the Project regardless of whether such loss occurs when the area is locked against entry or not.
- 6. No dogs, cats, fowl, or other animals (other than service animals) shall be brought into or kept in the Building.
- 7. Employees of Landlord shall not receive or carry messages for or to any Tenant or other person or contract with or render free or paid services to any Tenant or to any of Tenant's agents, employees or invitees.
- None of the parking, plaza, recreation or lawn areas, entries, passages, doors, elevators, hallways or stairways shall be blocked or obstructed or any rubbish, litter, trash, or material of any nature placed, emptied or thrown into these areas or such area used by Tenant's agents, employees or invitees at any time for purposes inconsistent with their designation by Landlord.
- The water closets and other water fixtures shall not be used for any purpose other than those
 for which they were constructed, and any damage resulting to them from misuse or by the

- defacing or injury of any part of the Building shall be borne by the person who shall occasion it. No person shall waste water by interfering with the faucets or otherwise.
- 10. No person shall disturb occupants of the Building by the use of any radios, record players, tape recorders, musical instruments, the making of unseemly noises or any unreasonable use.
- 11. Nothing shall be thrown out of the windows of the Building or down the stairways or other passages.
- 12. Tenant and its employees, agents and invitees shall park their vehicles only in those parking areas designated by Landlord. If requested by Landlord, Tenant shall furnish Landlord with state automobile license numbers of Tenant's vehicles and its employees' vehicles within five (5) days after taking possession of the Leased Premises and shall notify Landlord of any changes within five (5) days after such change occurs. Tenant shall not leave any vehicle in a state of disrepair on the Leased Premises or Project. If Tenant or its employees, agents or invitees park their vehicles in areas other than the designated parking areas or leave any vehicle in a state of disrepair, Landlord, after giving written notice to Tenant of such violation, shall have the right to remove such vehicles at Tenant's expense.
- Parking in a parking garage or area shall be in compliance with all parking rules and regulations including any sticker or other identification system established by Landlord. . No termination of parking privileges or removal of impoundment of a vehicle shall create any liability on Landlord or be deemed to interfere with Tenant's right to possession of its Leased Premises. Vehicles must be parked entirely within the stall lines and all directional signs, arrows and posted speed limits must be observed. Parking is prohibited in areas not striped for parking, in aisles, where "No Parking" signs are posted, on ramps, in cross thatched areas, and in other areas as may be designated by Landlord. Parking stickers or other forms of identification supplied by Landlord shall remain the property of Landlord and not the property of Tenant and are not transferable. Every person is required to park and lock his vehicle. All responsibility for damage to vehicles or persons is assumed by the owner of the vehicle or its driver.
 - 14. Movement in or out of the Building of furniture or office supplies and equipment, or dispatch or receipt by Tenant of any merchandise or materials which requires use of elevators or stairways, or movement through the Building entrances or lobby, shall be restricted to hours designated by Landlord. All such movement shall be under supervision of Landlord and carried out in the manner agreed between Tenant and Landlord by prearrangement before performance. Such prearrangement will include determination by Landlord of time, method, and routing of movement and limitations imposed by safety or other concerns which may prohibit any article, equipment or any other item from being brought into the Building. Tenant assumes, and shall indemnify Landlord against, all risks and claims of damage to persons and properties arising in connection with any said movement.
 - 15. Landlord shall not be liable for any damages from the stoppage of elevators for necessary or desirable repairs or improvements or delays of any sort or duration in connection with the elevator service.

- 16. Tenant shall not lay floor covering within the Leased Premises without written approval of the Landlord. The use of cement or other similar adhesive materials not easily removed with water is expressly prohibited. Landlord requires the use of carpet protectors at all desk areas in order to maintain the carpet in good condition and prevent abnormal wear.
- 17. Tenant agrees to cooperate and assist Landlord in the prevention of canvassing, soliciting and peddling within the Building or Project.
- 18. Landlord reserves the right to exclude from the Building or Project, between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and at all hours on Saturday, Sunday and legal holidays, all persons who are not known to the Building or Project security personnel and who do not present a pass to the Building signed by the Tenant. Each Tenant shall be responsible for all persons for whom he supplies a pass.
- 19. It is Landlord's desire to maintain in the Building or Project the highest standard of dignity and good taste consistent with comfort and convenience for Tenants. Any action or condition not meeting this high standard should be reported directly to Landlord. Your cooperation will be mutually beneficial and sincerely appreciated. Landlord reserves the right to make such other and further reasonable rules and regulations as in its judgment may from time to time be necessary, for the safety, care and cleanliness of the Leased Premises and for the preservation of good order therein.
- 20. The Building and Project have been designated as non-Smoking and Tenant shall police its employees, vendors, and guests.

March 26, 2014 2:50pm

EXHIBIT A-1

<u>Leased Premises - Floor Plan</u>

March 26, 2014 2:50pm

EXHIBIT A-2

Real Property Description

March 26, 2014 2:50pm

EXHIBIT B

Landlord Work Exhibit

This Exhibit supplements the Office Lease Agreement ("Lease") to which this Exhibit is attached and, together with the Lease, governs the construction of the Initial Improvements to the Leased Premises. All capitalized terms appearing in this Exhibit shall have the same meaning as those appearing in the Lease, except as expressly modified herein.

Initial Improvements. 1.

- The design and construction of the improvements shown in the Final Plans defined below (the "Initial Improvements") shall be at the expense of Tenant except to the a. extent of the Improvement Allowance defined below.
- The cost of the Initial Improvements shall include all "hard" construction costs (e.g., materials) and related "soft" costs (e.g., architectural fees). Landlord waives any and all construction management fees regarding the Initial Improvements. The total b. amount of the hard and soft construction costs is referred to herein as the "Improvement Costs."
- "Improvement Allowance" shall mean an allowance of \$35.00 per square foot of rentable area of Leased Premises to be provided by Landlord as set forth in the Improvement Allowance Section below. "Improvement Allowance" shall mean the c. lesser of (a) the amount of money required to complete the construction of the Leased Premises in accordance with the space plan, scope of construction, and materials to be used in connection with such construction, or (b) the amount of money required to complete the construction of the Initial Improvements in accordance with this Exhibit. Improvement Costs in excess of the Improvement Allowance shall be the responsibility of Tenant and shall be paid by Tenant within ten (10) days of receipt of an invoice therefore.

Tenant Plans. 2.

- Landlord and Tenant shall cause to be prepared by Jack Freeman & Associates, and delivered to Landlord and Tenant no later than execution of this Lease the following proposed drawings for the Initial Improvements a. ("Tenant Plans"):
 - architectural drawings (consisting of floor construction plan [including slab re-enforcement for heavy equipment], removable exterior wall glass panels, 1. ceiling lighting and layout, power and telephone plan);
 - mechanical drawings (consisting of HVAC, electrical, telephone, and 2. plumbing); and

March 26, 2014 2:50pm

- 3. finish schedule (consisting of wall finishes, floor finishes, and miscellaneous details).
- b. Within ten (10) days after Landlord receives the Tenant Plans, Landlord and Tenant shall approve the Tenant Plans or provide comments regarding any objections to the Tenant Plans. Landlord and Tenant shall then diligently revise the Tenant Plans to address all comments. Thereafter, these Landlord-approved and Tenant-approved Tenant Plans shall be known as the "Final Plans."
- c. Based on the Final Plans, Landlord shall promptly provide Tenant with cost estimates and construction bids for the Initial Improvements from three (3) reputable contractors selected by Landlord or a single contractor selected by mutual agreement in advance of the bidding process. Landlord and Tenant shall jointly review and approve or direct Landlord to make certain changes, deletions, or additions and to rebid the same. Landlord shall cause the rebidding of the Final Plans in accordance with Tenant's directives and shall submit the revised bid information to Tenant for Tenant's review and approval, which shall not be unreasonably withheld, conditioned or delayed. Within five (5) days of receipt thereof, Tenant shall review all cost estimates and construction bid information and provide Landlord with Tenant's approval thereof, including any final corrections and amendments, if any.
 - d. The Final Plans shall comply with all applicable Laws. Neither review nor approval by Landlord of the Final Plans shall constitute a representation or warranty by Landlord that such plans either (1) are complete or suitable for their intended purpose, or (2) comply with applicable Laws, it being expressly agreed by Tenant that Landlord assumes no responsibility or liability whatsoever to Tenant or to any other person or entity for such completeness, suitability, or compliance. Tenant shall not without Landlord's prior written approval make any changes to the Final Plans, except that immaterial changes may be made without Landlord's prior approval, provided that Tenant provides Landlord with prior written notice of any such change.

3. Construction of Initial Improvements.

- Upon the full execution of the Lease Agreement and the approval by both parties of the Final Plans, Landlord shall proceed to construct the Initial Improvements in a good and workmanlike manner using new materials in accordance with the Final Plans, all applicable codes, ordinances and laws and the contractor bid accepted by Tenant and Landlord.
- b. If Tenant desires to change the Final Plans, Tenant shall, at its expense, provide to Landlord plans and specifications for such change(s). All such plans and specifications shall be subject to Landlord's written approval, which will not be unreasonably withheld, conditioned or delayed.
- c. If Tenant requests Landlord to perform additional work to the Leased Premises outside the scope of the Final Plans, then such additional work shall be performed by

March 26, 2014 2:50pm

Landlord at Tenant's expense. Prior to commencing any such additional work requested by Tenant, Landlord will procure from the contractor and submission to Tenant written estimates of the cost of any such work. If Tenant fails to approve any such estimate within ten (10) days, then the same shall be deemed disapproved in all respects by Tenant, and Landlord shall not be authorized to proceed thereon.

- d. If Tenant fails to supply to Landlord any of the information required under Section 2 above within twenty (20) days after the dates so specified, then Landlord may, at its option, declare an event of default under the Lease and exercise any of Landlord's remedies for an event of default thereunder, including terminating the Lease.
- Upon Substantial Completion (defined below), Landlord will assign to Tenant, on a nonexclusive basis, all warranties available from the contractors, subcontractors, suppliers, manufacturers, and materialmen for construction of the Initial e. "Substantial Completion" shall mean the date the applicable certificate of occupancy is issued with respect to the Initial Improvements. Tenant's Improvements. sole and exclusive remedy for any defects in materials and/or workmanship shall be for the repair of such defects, or the replacement of the portion of the Initial Improvements affected by such defects, under the aforementioned warranties, and Landlord shall not be responsible for any defect of any nature in the Initial Improvements. Landlord makes no warranties, expressed or implied, including but not limited to implied warranties of merchantability and fitness for a particular purpose, in connection with the Initial Improvements. Tenant's sole remedy for breach of any applicable warranty shall be the remedy set forth in this Section. Tenant agrees that no other remedy, including without limitation incidental or consequential damages for lost profits, injury to person or property, or any other incidental or consequential loss, shall be available to Tenant.
 - f. Prior to and during construction of the Initial Improvements, Tenant's architects, vendors, and other duly authorized agents shall have the right to enter the Leased Premises for purposes of inspection, making measurements, and installing system furniture (after any floor covering that is part of the Initial Improvements has been installed), phone equipment, and telecommunications cabling, provided, upon the request of Landlord, each such agent presents Landlord with evidence of insurance reasonably satisfactory to Landlord.
 - g. Upon Substantial Completion, Tenant shall provide Landlord with a punch list of items requiring completion and/or correction with regard to the Initial Improvements ("Punch List"). Landlord shall complete the Punch List as soon as reasonably practicable. Landlord shall own the Initial Improvements as part of the Building. Upon Substantial Completion, the Initial Improvements shall be deemed by Tenant to be satisfactorily completed except to the extent noted in the Punch List.
- 4. Selection of Contractor.

March 26, 2014 2:50pm

Landlord, acting in its sole and absolute discretion with input from Tenant, shall have the right to select the contractor for the Initial Improvements.

Improvement Allowance. 5.

Landlord shall contribute the Improvement Allowance towards the Improvement Costs in accordance with the terms of this Section. All Improvement Costs incurred by Landlord shall be deducted from the Improvement Allowance, and applied by Landlord to pay the Improvement Costs, as such costs are incurred. Any unused portion of the Improvement Allowance shall be retained by Landlord. In the event the Improvement Costs exceed the amount of the Improvement Allowance, Tenant shall pay to Landlord such excess amount within ten (10) days after Tenant's receipt of invoice for same. In no event shall Landlord be obligated to expend more than the Improvement Allowance.

Commencement Date. 6.

The Commencement Date of this Lease shall be determined in accordance with the terms of Section 1.3 of this Lease. Provided, however, that Substantial Completion shall be deemed to have occurred on that date which is one hundred twenty (120) days following Landlord's substantial completion of the Building shell if actual Substantial Completion of the Leased Premises is delayed beyond said one hundred twenty (120) day period due to Tenant Delay as defined in Section 7 following.

For example, if Substantial Completion actually occurs on January 16, but there were fifteen (15) days of Tenant Delay after expiration of one hundred twenty (120) days following Landlord's substantial completion of the Building shell, then Substantial Completion will be deemed to have occurred on January 1 of such year.

Tenant Delay. 7.

The term "Tenant Delay" shall mean each day that actual Substantial Completion is delayed due to any of the following:

- Tenant's failure to respond, within reasonable time periods prescribed by Landlord, to a request for information necessary for the completion of the Tenant Plans or the a. Final Plans;
- Changes by Tenant to the Final Plans; b.
- Any interference by Tenant with the construction of the Initial Improvements; or c.
- Tenant's failure to act in good faith with respect to the construction of the Initial d. Improvements.

March 26, 2014 2:50pm

EXHIBIT C

Security Deposit Schedule

March 26, 2014 2:50pm

EXHIBIT D

Site Plan

March 26, 2014 2:50pm

Attachment E Revised page 3

E.	68-11-1607 (4) MRI services X Discontinuance of OB Services	H. I.	Conversion, Relocation] Change of Location Other(Specify)	<u>X</u>
F.	Acquisition of Equipment X			

	Current License		Staffed Beds	Beds Proposed	TOTAL Beds at Completion
A. Medical		W			
B Surgical					
C. Long-Term Care Hospital					
D. Obstetrical			-		
E. ICU/CCU		-			
F. Neonatal		-			
G. Pediatric					
H. Adult Psychiatric		-			
I Geriatric Psychiatric	-				
J. Child/Adolescent Psychiatric	-				
IZ Dehabilitation	-	+			
L. Nursing Facility – SNF (Medicare	1				
only)	+	1			
M. Nursing Facility – NF (Medicaid		1			
- 1-1-1	+				
N. Nursing Facility – SNF/NF (dually certified Medicaid/Medicare)					
O. Nursing Facility – Licensed (non- Certified)					
P. IDIHF			_		
O Adult Chemical Dependency				_	
R. Child and Adolescent Chemical					
S. Dependency			_		
m G in a Dodg			_		
U. Mental Health Residential Treatment		_		_	
V. Residential Hospice					
TOTAL *CON-Beds approved but not yet in		\			

	Medicare Provider Number n/a – new entity	
10.	Medicare Provider Transco	
	Certification Type	

March 26, 2014 2:50pm

Attachment F Letters of Support

March 26, 2014 2:50pm

Associates of Family Practice, PLLC Dr. Daniel J. Scott III Robyn Vanderford, FNP 7889 Astoria Road Millington, Tenn., 38053 901-872-6963 901-872-6988 (Fax)

February 28, 2014

Attn: Tracy Dabaldo, Administrator Outpatient Diagnostic Center of Center 5130 Stage Road Memphis, Tenn., 38134

It has come to our provider's attention that your Diagnostic Center is Dear Tracy, planning to relocate to another facility in Germantown. Our providers feel that this move will be great for the center and to our patients to be able to provide more services to them.

If you have any further questions, please feel free to contact me.

Sincerely,

Brandy West, I.PN, Clinical Supervisor

Associates of Family Practice

March 26, 2014
MidSouth
2:50pm
Pain Treatment
Center, LLC

Michael E, Steuer, M.D.

Steven T. Richey, M.D. www.midsouthpain.com

Kirk L. Kinard, D.O.,

President and Medical Director

122 Airways Place • Southaven, MS 38671 • Ph 662.349.9990 • Fax 662.349.2620 1365 W. Brierbrook Rd. • Germantown, TN 38138 • Ph 901.751.4112 • Fax 901.751.9878 101 Ricky D. Britt, Sr. Blvd., Ste 2 • Oxford, MS 38655 • Ph 662.236.5442 • Fax 662.236.5295 2016 Greystone Sq • Jackson, TN 38305 • Ph 731.664,1773 • Fax 731.664,1751

Date: February 27, 2014

Outpatient Diagnostic Center of Memphis

In the event that your facility moves to the Germantown area, we want to assure you that our practice and providers will continue to refer our patients to your valued facility.

Sincerely,

Shondra Sain, Office Manager Midsouth Pain Treatment Center 146 Timber Creek Dr. Snite 200 Cordova, Tn. 38018

March 26, 2014 2:50pm

Attachment G Revised Page 27

March 26, 2014 2:50pm

Compare the proposed charges to those of similar facilities in the service area/adjoining service areas, or to proposed charges of projects recently approved by the В. Health Services and Development Agency. If applicable, compare the proposed charges of the project to the current Medicare allowable fee schedule by common procedure terminology (CPT) code(s).

The median gross charge for MRI services, per the HSDA equipment registry, is \$2,106.03.

	Medicare Allowable	OiA Charges
Scan	\$224.93	\$1,404.00
Mri lumbar spine w/o dye	\$234.75	\$1,111.00
Mri jnt of lwr extre w/o dye	\$224.75	\$1,354.00
Mri neck spine w/o dye	\$234.43	\$1,131.00
Mri joint upr extrem w/o dye Mri brain w/o dye	\$226.49	\$1,486.00

Discuss how projected utilization rates will be sufficient to maintain cost-effectiveness; how financial viability will be ensured within two years; and demonstrate the availability 1. of sufficient cash flow until financial viability is achieved.

MRI is an existing service. This project will round out the current imaging services with CT, ultrasound, x-ray, and fluoroscopy. Adding these additional modalities in one facility will increase the cost-effectiveness of the current services because the center will be able to spread the fixed administrative costs such as patient waiting and sub-waiting, IT systems, and reception and scheduling to all modalities not just MRI. In addition, the applicant anticipates some of the clinical staff will be cross trained on different modalities providing for an efficient level of staffing.

It is anticipated that upon opening of the location, the partners will fund the entity with \$1.4 million in working capital to cover the center's startup phase.

Discuss the project's participation in state and federal revenue programs including a description of the extent to which Medicare, TennCare/Medicaid, and medically indigent 2. patients will be served by the project. In addition, report the estimated dollar amount of revenue and percentage of total project revenue anticipated from each of TennCare, Medicare, or other state and federal sources for the proposal's first year of operation.

The center currently is enrolled with Medicare and TennCare/Medicaid. There are no restrictions or limitations for patients to use the services of the facility. The center treats all patients regardless of their ability to pay for services and will continue this policy at the new location. As mentioned above, the facility will adopt the charity care policy of BMG and its affiliates.

Year 1

DIVIO and the 195	Year I	Congall Revenue
	Gross Revenue	Percentage of Overall Revenue
- a Madigaid	\$361,674.72	6%
TennCare/Medicaid	\$542,512.08	070
Medicare		

March 26, 2014 2:50pm

Attachment H Funding Letters

March 26, 2014 2:50pm



MID-SOUTH IMAGING & THERAPEUTICS, P.A.

6305 Humphreys Bivd., Suite 205 ■ Memphis, Tennessee 38120 (901) 747-1000 ■ FAX (901) 747-1001 ■ www.msit.com

BODY IMAGING Daniel J. Becker, M.D. John F. Burda, M.D. Andy Craven, M.D. Henry Dalsania, M.D. Scott D. Didler, M.D. Richard Duszak, Jr., M.D., F.A.C.R., F.S.I.R. Andy Elizey, M.D. George W. Galllmore, M.D. Derry D. Garner, M.D. Shannon M. Gulla, M.D. Randy J. Horras, M.D. Joe R. Krisle, M.D., F.A.C.R. Errol Lewis, M.D. James E. Machin, M.D. Alan J. McLeod, M.D. Robert J. Optican, M.D. Virginia S. Owen, M.D. Ranganathan Parthasarathy, M.D. Paul R. Tanner, M.D. Lloyd R. Thomas, Jr., M.D., F.A.C.R Allen K. Tonkin, M.D. Keith A. Tonkin, M.D. Dexter H. Witte, M.D.

INTERVENTIONAL
NEURORADIOLOGY
Adam S. Arthur, M.D., M.R.H.
Lucas Eljovich, M.D.
Danlei Holt, M.D.
S. David Morils, M.D.

MUSCULOSKELETAL IMAGING Andy Elizey, M.D. Dexter H. Witte, M.D.

NEURORADIOLOGY
James D. Acker, M.D.
Scott D. Didler, M.D.
Frank M. Eggers, II, M.D., F.A.C.R.
Alan D. Eisenberg, M.D.
S. David Mortls, M.D.
T. Craig Nauert, M.D.

NUCLEAR MEDICINE
John S. Buchignani, Jr., M.D., F.A.C.R.
Andy Craven, M.D.
Craig L. Upman, M.D.
H. Lynn Magill, M.D., F.A.C.R, F.A.C.N.P.
Virginia S. Owen, M.D.
Ranganathan Parthasarathy, M.D.

PEDIATRIC RADIOLOGY H. Lynn Maglii, M.D., F.A.C.R, F.A.C.N.P. Webster W. Riggs, Jr., M.D., F.A.C.R.

VASCULAR INTERVENTIONAL
Daniel J. Becker, M.D.
John F. Burda, M.D.
Henry Dalsania, M.D.
Ramesh Parthasarathy, M.D.
Phillip T. Zeni, Jr., M.D.

CHIEF EXECUTIVE OFFICER
Brian Barbelto, M.B.A., M.S.H.A., EA.C.H.E

CHIEF FINANCIAL OFFICER AI Kenney, C.P.A.

Providing Imaging & Therapeutic Services for the Baptist Memorial Health Care System March 21, 2014

Melanie Hill, Executive Director
Tennessee Health Services & Development Agency
Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, TN 37243

Dear Ms. Hill,

Mid-South Imaging & Therapeutics, P.A. intends to contribute at least \$83,333 to the new entity, West Tennessee Imaging, LLC. Mid-South Imaging & Therapeutics, P.A. has the financial resources to provide such a contribution.

Sincerely,

Brian M. Barbeito

Chief Executive Officer



March 26, 2014 2:50pm

OUTPATIENT IMAGING AFFILIATES, LLC

March 21, 2014

Ms. Melanie Hill **Executive Director** Tennessee Health Services and Development Agency 502 Deaderick Street, 9th Floor Nashville, TN 37243.

RE: Contribution to project

Dear Ms. Hill,

Outpatient Imaging Affiliates ("OiA") will contribute the value associated with the existing facility at 5130 Stage Road to the new entity, West Tennessee Imaging.

Thank you for your consideration.

Sincerely,

J. Creighton Cook

Senior Director of Business Development

1940l

Outpatient Imaging Affiliates

March 26, 2014 2:50pm

BAPTIST MEMORIAL HEALTH CARE CORPORATION

March 21, 2014

Melanie Hill, Executive Director
Tennessee Health Services & Development Agency
Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, TN 37243.

RE: West Tennessee Imaging, LLC Relocation of ODC

Dear Ms. Hill:

Baptist Memorial Medical Group is a member in West Tennessee Imaging, LLC.

This letter will confirm that Baptist Memorial Health Care Corporation, the sole member of Baptist Memorial Medical Group Inc. has adequate financial reserves and intends to contribute at least \$1,333,333 to the new entity, West Tennessee Imaging.

We are available for questions.

Sincerely,

Donald R. Pounds

Chief Financial Officer, BMHCC

Attachment I Standards & Criteria for MRI & ODCs

OUTPATIENT DIAGNOSTIC CENTERS

1. The need for outpatient diagnostic services shall be determined on a county by county basis (with data presented for contiguous counties for comparative purposes) and should be projected four years into the future using available population figures.

While this application technically seeks approval for a new ODC, it is effectively a relocation of an existing facility within the same service area. Projected volumes for each modality in the first four years of operation are set forth in the chart below. The need for the facility is established on the basis of the historical utilization at the existing location and the advantages of the new location, including the ability to add new imaging modalities.

	Y1	Y2	Y3	Y4
MRI	3,528	3,602	3,679	3,754
CT	1,537	1,562	1,588	1,613
US	4,637	4,788	4.939	5,090
X-Ray	2,218	2,268	2,318	2,369
Fluro	907	932	958	983

2. Approval of additional outpatient diagnostic services will be made only when it is demonstrated that existing services in the applicant's geographical service area are not adequate and/or there are special circumstances that require additional services.

The existing facility on Stage Coach Road is too small to accommodate other modalities, and parking and patient access are less than ideal. The special circumstances that support this application are the advantages of the new location, the opportunity to replace and upgrade an existing MRI, and the patient convenience and physician convenience that will result from a full spectrum of imaging services being available at the facility.

- 3. Any special needs and circumstances:
 - a. The needs of both medical and outpatient diagnostic facilities and services must be analyzed.

The proposed new facility will result in an existing ODC relocating to a better, larger and more accessible location. In addition, the proposed facility will have sufficient space to accommodate a full spectrum of outpatient imaging.

- b. Other special needs and circumstances, which might be pertinent, must be analyzed.

 The applicant is not aware of any other special needs and circumstances.
- c. The applicant must provide evidence that the proposed diagnostic outpatient services will meet the needs of the potential clientele to be served.
 - 1. The applicant must demonstrate how emergencies within the outpatient diagnostic facility will be managed in conformity with accepted medical practice.

The applicant plans to have a transfer agreement with Baptist Memorial Hospital-Memphis, and, in the unlikely event of an emergency, the patient would be transported by ambulance to Baptist Memorial. A copy of the emergency procedures is attached as Attachment P.

2. The applicant must establish protocols that will assure that all clinical procedures performed are medically necessary and will not unnecessarily duplicate other services.

The facility will provide services only to those patients who have an order from a referring physician, so all procedures performed will be medically necessary as determined by the referring physician.

MRI Standards and Criteria

- 1. <u>Utilization Standards for non-Specialty MRI Units.</u>
 - a. An applicant proposing a new non-Specialty stationary MRI service should project a minimum of at least 2160 MRI procedures in the first year of service, building to a minimum of 2520 procedures per year by the second year of service, and building to a minimum of 2880 procedures per year by the third year of service and for every year thereafter.

The MRI proposed will not add capacity to the market, but will replace an existing unit. In any event, the projected utilization exceeds the minimum thresholds.

	Year 1	Year 2	Year 3	Year 4
MRI Volume	2,772	2,830	2,890	2,950

b. Providers proposing a new non-Specialty mobile MRI service should project a minimum of at least 360 mobile MRI procedures in the first year of service per day of operation per week, building to an annual minimum of 420 procedures per day of operation per week by the second year of service, and building to a minimum of 480 procedures per day of operation per week by the third year of service and for every year thereafter.

Not applicable.

c. An exception to the standard number of procedures may occur as new or improved technology and equipment or new diagnostic applications for MRI units are developed. An applicant must demonstrate that the proposed unit offers a unique and necessary technology for the provision of health care services in the Service Area.

Not applicable.

d. Mobile MRI units shall not be subject to the need standard in paragraph 1 b if fewer than 150 days of service per year are provided at a given location. However, the applicant must demonstrate that existing services in the applicant's Service Area are not adequate and/or that there are special circumstances that require these additional services.

Not applicable.

e. Hybrid MRI Units. The HSDA may evaluate a CON application for an MRI "hybrid" Unit (an MRI Unit that is combined/utilized with another medical equipment such as a megavoltage radiation therapy unit or a positron emission tomography unit) based on the primary purposes of the Unit.

Not applicable.

2. Access to MRI Units. All applicants for any proposed new MRI Unit should document that the proposed location is accessible to approximately 75% of the Service Area's population. Applications that include non-Tennessee counties in their proposed Service Areas should

provide evidence of the number of existing MRI units that service the non-Tennessee counties and the impact on MRI unit utilization in the non-Tennessee counties, including the specific location of those units located in the non-Tennessee counties, their utilization rates, and their capacity (if that data are available).

Approximately 83% of the utilization for the existing facility is by patients who reside in Shelby and Tipton counties. Patient origin at the new facility is not expected to change materially.

3. <u>Economic Efficiencies.</u> All applicants for any proposed new MRI Unit should document that alternate shared services and lower cost technology applications have been investigated and found less advantageous in terms of accessibility, availability, continuity, cost, and quality of care.

Given the historical and projected utilization of the MRI, sharing with another provider is not feasible. The applicant is not aware of less costly MRI unit with the same specifications, including bore size and weight capacity of the unit.

4. Need Standard for non-Specialty MRI Units.

A need likely exists for one additional non-Specialty MRI unit in a Service Area when the combined average utilization of existing MRI service providers is at or above 80% of the total capacity of 3600 procedures, or 2880 procedures, during the most recent twelve-month period reflected in the provider medical equipment report maintained by the HSDA. The total capacity per MRI unit is based upon the following formula:

Stationary MRI Units: 1.20 procedures per hour x twelve hours per day x 5 days per week x 50 weeks per year = 3,600 procedures per year

Mobile MRI Units: Twelve (12) procedures per day x days per week in operation x 50 weeks per year. For each day of operation per week, the optimal efficiency is 480 procedures per year, or 80 percent of the total capacity of 600 procedures per year.

Utilization of existing MRIs is provided in Attachment M. The proposal will not result in additional MRI capacity in the market.

- 5. Need Standards for Specialty MRI Units.
 - a. Dedicated fixed or mobile Breast MRI Unit. An applicant proposing to acquire a dedicated fixed or mobile breast MRI unit shall not receive a CON to use the MRI unit for non-dedicated purposes and shall demonstrate that annual utilization of the proposed MRI unit in the third year of operation is projected to be at least 1,600 MRI procedures (.80 times the total capacity of 1 procedure per hour times 40 hours per week times 50 weeks per year), and that:
 - 1. It has an existing and ongoing working relationship with a breast-imaging radiologist or radiology proactive group that has experience interpreting breast images provided by mammography, ultrasound, and MM unit equipment, and that is trained to interpret images produced by an MRI unit configured exclusively for mammographic studies;

- 2. Its existing mammography equipment, breast ultrasound equipment, and the proposed dedicated breast MRI unit are in compliance with the federal Mammography Quality Standards Act;
- 3. It is part of or has a formal affiliation with an existing healthcare system that provides comprehensive cancer care, including radiation oncology, medical oncology, surgical oncology and an established breast cancer treatment program that is based in the proposed service area.
- 4. It has an existing relationship with an established collaborative team for the treatment of breast cancer that includes radiologists, pathologists, radiation oncologists, hematologist/oncologists, surgeons, obstetricians/gynecologists, and primary care providers.

Not applicable.

b. <u>Dedicated fixed or mobile Extremity MRI Unit</u>. An applicant proposing to institute a Dedicated fixed or mobile Extremity MRI Unit shall provide documentation of the total capacity of the proposed MRI Unit based on the number of days of operation each week, the number of days to be operated each year, the number of hours to be operated each day, and the average number of MRI procedures the unit is capable of performing each hour. The applicant shall then demonstrate that annual utilization of the proposed MRI Unit in the third year of operation is reasonably projected to be at least 80 per cent of the total capacity. Non-specialty MRI procedures shall not be performed on a Dedicated fixed or mobile Extremity MRI Unit and a CON granted for this use should so state on its face.

Not applicable.

c. <u>Dedicated fixed or mobile Multi-position MRI Unit</u>. An applicant proposing to institute a Dedicated fixed or mobile Multi-position MRI Unit shall provide documentation of the total capacity of the proposed MRI Unit based on the number of days of operation each week, the number of days to be operated each year, the number of hours to be operated each day, and the average number of MRI procedures the unit is capable of performing each hour. The applicant shall then demonstrate that annual utilization of the proposed MRI Unit in the third year of operation is reasonably projected to be at least 80 per cent of the total capacity. Non-specialty MRI procedures shall not be performed on a Dedicated fixed or mobile Multi-position MRI Unit and a CON granted for this use should so state on its face.

Not applicable.

6. Separate Inventories for Specialty MRI Units and non-Specialty MRI Units. If data availability permits, Breast, Extremity, and Multi-position MRI Units shall not be counted in the inventory of non-Specialty fixed or mobile MRI Units, and an inventory for each category of Specialty MRI Unit shall be counted and maintained separately. None of the Specialty MRI Units may be replaced with non-Specialty MRI fixed or mobile MRI Units and a Certificate of Need granted for any of these Specialty MRI Units shall have included on its face a statement to that effect. A non-Specialty fixed or mobile MR1 Unit for which a

- CON is granted for Specialty MRI Unit purpose use-only shall be counted in the specific Specialty MR1 Unit inventory and shall also have stated on the face of its Certificate of Need that it may not be used for non-Specialty MRI purposes.
- 7. <u>Patient Safety and Quality of Care</u>. The applicant shall provide evidence that any proposed MRI Unit is safe and effective for its proposed use.
 - a. The United States Food and Drug Administration (FDA) must certify the proposed MRI Unit for clinical use.
 - FDA approval attached as Attachment B.II.E.1.a.5 to the Application.
 - b. The applicant should demonstrate that the proposed MRI Procedures will be offered in a physical environment that conforms to applicable federal standards, manufacturer's specifications, and licensing agencies' requirements.
 - The MRI will be installed in space that meets all applicable licensing and manufacturer's standards.
 - c. The applicant should demonstrate how emergencies within the MRI Unit facility will be managed in conformity with accepted medical practice.
 - The applicant intends to have a transfer agreement with Baptist Memorial Hospital Memphis, and in the unlikely event of an emergency, patients will be transferred by ambulance to Baptist Memorial.
 - d. The applicant should establish protocols that assure that all MRI Procedures performed are medically necessary and will not unnecessarily duplicate other services.
 - The facility will perform MRI procedures on only those patients who have an order for an MRI from a referring physician, thus assuring that all procedures are medically necessary as determined by the patient's physician.
 - e. An applicant proposing to acquire any MRI Unit or institute any MRI service, including Dedicated Breast and Extremity MRI Units, shall demonstrate that it meets or is prepared to meet the staffing recommendations and requirements set forth by the American College of Radiology, including staff education and training programs.
 - The existing ODC on Stage Road meets the ACR staffing standards and is ACR accredited, and the applicant will continue to meet the accreditation standards at the new facility.
 - f. All applicants shall commit to obtain accreditation from the Joint Commission, the American College of Radiology, or a comparable accreditation authority for MRI within two years following operation of the proposed MRI Unit.
 - See e. above.
 - g. All applicants should seek and document emergency transfer agreements with local area hospitals, as appropriate. An applicant's arrangements with its physician medical director must specify that said physician be an active member of the subject transfer agreement hospital medical staff.

The applicant will have a transfer agreement with Baptist Memorial Hospital-Memphis. The applicant's medical director, Dr. Robert Optican, is an active member of the medical staff at Baptist Memorial. The transfer agreement and emergency protocols are attached as Attachment P.

8. The applicant should provide assurances that it will submit data in a timely fashion as requested by the HSDA to maintain the HSDA Equipment Registry.

The applicant commits to submit data in a time fashion to the HSDA as described.

- 9. In light of Rule 0720-11.01, which lists the factors concerning need on which an application may be evaluated, and Principle No. 2 in the State Health Plan, "Every citizen should have reasonable access to health care," the HSDA may decide to give special consideration to an applicant:
 - a. Who is offering the service in a medically underserved area as designated by the United States Health Resources and Services Administration;
 - b. Who is a "safety net hospital" or a "children's hospital" as defined by the Bureau of TennCare Essential Access Hospital payment program; or
 - c. Who provides a written commitment of intention to contract with at least one TennCare MCO and, if providing adult services, to participate in the Medicare program; or
 - d. Who is proposing to use the MRI unit for patients that typically require longer preparation and scanning times (e.g., pediatric, special needs, sedated, and contrast agent use patients). The applicant shall provide in its application information supporting the additional time required per scan and the impact on the need standard.

The existing ODC on Stage Road is contracted with all TennCare plans that operate in the area, and the applicant will do likewise. In addition, the proposed MRI has a bore size and weight limit (500 lbs) that will accommodate obese patients, an increasingly large segment of the population that cannot be served by many of the existing MRIs in the community.

March 26, 2014 2:50pm

Attachment J List of Equipment (other than MRI)

March 26, 2014 2:50pm

Equipment List

		Service (5 years)	Taxes
T !ont	Purchase Price		\$36,514.30
Equipment 116 alias CT	\$456,428.80	\$375,000	\$7,332.86
GE Lightspeed 16-slice CT	\$91,660.80	\$60,000	
GE Logiq Ultrasound	15 0 50 40	\$25,000	\$19,389.55
GE Proteus X-Ray/Flouro	\$242,369.40	4000	
GE Troteus 22 23			

March 26, 2014 2:50pm

Attachment K Revised MRI Quotation

March 26, 2014 2:50pm

Quotation Number: PR6-C17593 V 5

Outpatient Imaging Affiliates LLC 840 Crescent Centre Dr Ste 260 Franklin TN 37067-6406

A Print Print A Springspromature of

Attn: Paul Claus

Date: 03-25-2014

This Agreement (as defined below) is by and between the Customer and the GE Healthcare business ("GE Healthcare"), each as identified herein. GE Healthcare agrees to provide and Customer agrees to pay for the Products listed in this GE Healthcare Quotation ("Quotation"). "Agreement" is defined as this Quotation and the terms and conditions set forth in either (i) the Governing Agreement identified below or (ii) if no Governing Agreement is identified, the following documents:

- 2) The following documents, as applicable, if attached to this Quotation: (i) GE Healthcare Warranty(ies); (ii) GE Healthcare Additional Terms and Conditions; (iii) GE Healthcare Product Terms and Conditions; and (iv) GE Healthcare General Terms and Conditions.

This Quotation is subject to withdrawal by GE, Healthcore at any time before acceptance, Customer accepts by signing and returning this Quotation or by otherwise providing evidence of acceptance satisfactory to GE Healthcare. Upon acceptance, this Quotation and the related terms and conditions listed above (or the Governing Agreement, if any) shall constitute the complete and final agreement of the parties relating to the Products identified in this Quotation. The parties agree that they have not relied on any oral or written terms, conditions, representations or warranties outside those expressly stated or incorporated by reference in this Agreement in making their decisions to enter into this Agreement. No agreement or understanding, oral or written, in any way purporting to modify this Agreement, whether contained in Customer's purchase order or shipping release forms, or elsewhere, shall be binding unless hereafter agreed to in writing by authorized representatives of both parties. Each party objects to any terms inconsistent with this Agreement proposed by either party unless agreed to in writing and signed by authorized representatives of both parties, and neither the subsequent lack of objection to any such terms, nor the delivery of the Products, shall constitute an agreement by

By signing below, each party certifies that it has not made any handwritten modifications. Manual changes or mark-ups on this Agreement (except signatures in the signature blocks and an indication in the form of payment section below) will be void.

- Terms of Delivery:
- Quotation Expiration Date:
- Billing Terms:
- Payment Terms:
- Governing Agreement:

FOB Destination

06-20-2014

80% delivery / 20% Installation

UPON RECEIPT

None

Each party has caused this agreement to be signed by an authorized representative on the date set forth below. Please submit

Please submit Purchase Orders to: General Electric Company, GE Healthcare, 3000 N. Grandview Blvd., Mail Code WT-897, purchase orders to GE Healthcare

GE HEALTHCARE

Waukesha, WI 53188

J Mcnatt

03-25-2014 **Product Sales Specialist**

CUSTOMER

Date **Authorized Customer** Print Name and Title PO# Desired Equipment First Use Date

GE Healthcare will use reasonable efforts to meet Customer's desired equipment first use date. The actual delivery date will be mutually agreed upon by the parties.

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Cas	h*Le ng please p	ease	HFS Lo	an		any
*Selecting	g Cash or	not id	entifying	GE HF	S as	the HFS

March 26, 2014 2:50pm

Quotation Number: PR6-C17593 V 5

Quotan		
Item No. Qty	Catalog No.	Description
1 1	S7024AJ	Optima MR450w 1.5T MR System - EX Platform The Optima MR450w 1.5T MR system from GE Healthcare is designed to deliver a comfortable patient-friendly environment while also delivering uncompromised clinical performance and streamlined workflow. The EX platform package delivers the system electronics, operating software, imaging software, post-processing software and RF coil suite for the Optima MR450w system:

- Gradient Technology
- Acoustic Reduction Technology
- OpTix RF Receive Technology
- Volume Reconstruction Engine
- Computing Platform and DICOMM
- Optima MR450w Express Patient Table
- Express Workflow and In-Room Operator Console
- ScanTools and ES Tools
- Cable Concealment Kit

Gradient Technology: The Optima MR450w system utilizes the 34/150 gradient driver technology to deliver premium clinical performance. The gradients are non-resonant and actively shielded to minimize eddy currents. The gradients deliver high fidelity reproducibility through a digital control architecture that features a dedicated active feedback loop that regulates current errors, and a feed-forward model that matches amplifier output to gradient coil. The gradient coil and the RF body coil are integrated into a single module that is both water and air cooled.

- Peak amplitude per axis: 34 mT/m
- Peak slew rate per axis: 150 T/m/s
- Maximum FOV: 50cm

Acoustic Noise Reduction Technology: The Optima MR450w system features five levels of acoustic reduction technology to deliver an enhanced patient environment. Magnet interaction with the building is addressed through the vibro-acoustic dampening pad. Resonance module interaction with support structures within the magnet is addressed through design that clearly separates the components. Mass-dampened acoustic barriers further reduce noise for the patient, and ScanTools provide a user selectable gradient waveform optimization.

- Gradient coil isolation
- RF coil isolation
- Acoustic dampening material
- Vibro-acoustic isolation

March 26, 2014 2:50pm

Quotation Number: PR6-C17593 V 5

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Item No. Qty Catalog No.

Description

• Gradient waveform optimization

OpTix RF Receive Technology: The Optima MR450w system utilizes the OpTix RF receive chain to enable high bandwidth, high channel count reception with improved SNR over conventional MR receiver designs. The MR signal is digitized within the scan room and then optically transmitted to the reconstruction engine in the electronics room increasing SNR for all volume acquisitions, independent of which surface coil is being used.

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- Simultaneous channel/receivers: 16
- Receiver sampling per channel: 80 MHz
- Receiver dynamic range at 1 Hz BW: >165 dB
- Receiver resolution: up to 32 bits
- Digital quadrature demodulation

Volume Reconstruction Engine: The Optima MR450w system features a powerful volume reconstruction engine with onboard memory and local raw data storage to support and maintain simultaneous data acquisition and reconstruction under the most demanding applications. VRE uses 64-bit computing, delivering high acquisition memory and fast performance. Parallel processing and high speed interconnects provide scalable memory and throughput. The acquisition to disk feature automatically expands the memory per the demands of the application.

- 6.500 2D FFTs/second 256x256 full FOV
- 16GB DDR3 RAM memory
- 292GB disk subsystem capacity

Computing Platform and DICOM: The Optima MR450w system computing platform is designed for efficiency and built upon a parallel, multiprocessor design that delivers the simultaneity and speed needed for advanced clinical operation. Productivity, efficiency and streamlined data management are assured through simultaneous scanning, reconstruction, filming, archiving, networking and post-processing. The scan control keyboard features intercom speaker, microphone, volume controls, start scan, pause scan, stop scan and table advance to iso-center controls. Please refer to the Optima MR450w product data sheet for greater detail.

- Single tower configuration
- 24" flat panel LCD widescreen
- 1920 x 1200 resolution
- 8GB DDR3 RAM memory
- 146GB system disk subsystem
- DVD interchange

March 26, 2014 2:50pm

Quotation Number: PR6-C17593 V 5

Item No. Qty Catalog No.

Description

The Optima MR450w system generates MR Image, Secondary Capture, Structured Report, and Gray Scale Softcopy Presentation State DICOM objects. The DICOM networking supports both send and query retrieve as well as send with storage commit to integrate with PACS archive. Additionally, the Optima MR450w system supports the CT and PET image objects for display allowing the user to refer to previous exams. Please refer to the DICOM Compliance Statement for Optima MR450w for further details.

Optima MR450w Express Patient Table: GE's fully detachable Express Patient Table incorporates the Liberty 2.0 Docking System to improve safety, exam efficiency, and patient comfort.

Express Patient Table Safety: Easily docked and undocked by a single operator, and simple to move in and out of the exam room for patient transport and preparation. These features can be vital in instances where multiple patient transfers can negatively impact patient care or when emergency extraction is required.

Express Patient Table Exam efficiency: In addition to being fully detachable, the Express patient table can prepare patients for an exam outside of the scan room, thus reducing the necessary steps before starting the acquisition. Surface coil positioning, IV poles, arm boards, support pads and blankets are easily setup in advance of entering the exam room. With an additional second table, the next patient can be prepared while the current patient is undergoing an examination, thus minimizing exam room time between scans.

The Express Patient Table offers head- or feet first imaging for most anatomies. Additionally, feet-first positioning facilitates run-off studies and set-up for claustrophobic patients.

- · Maximum patient weight for scanning: 500 lbs
- Patient table drive: Automated, power driven vertical & longitudinal
- Longitudinal speed: 30 cm/sec (fast) and 0.5 cm/sec (slow)
- Total cradle length: 211 cm
- Scannable range: 205 cm

The Optima MR450w system enables complete control of protocols for simple prescription, archiving, searching, and sharing. Protocols are organized into two libraries: GE authored and Site Authored. In addition, ProtoCopy enables a complete exam protocol, from either a library or previous exam, to be shared with a mouse click, and Protocol Notes allows customized notes to be saved with the protocol parameters. The Modality Worklist provides an automated method of linking exam and protocol information for a patient directly from a DICOM Worklist server.



State of Tennessee Health Services and Development Agency

Andrew Jackson Building, 9th Floor, 502 Deaderick Street, Nashville, TN 37243 www.tn.gov/hsda Phone: 615-741-2364/Fax: 615-741-9884

March 28, 2014

Mr. Perry Baker, Chief Financial Officer Outpatient Imaging Affiliates 840 Crescent Center Drive, Suite 200 Franklin, TN 37067

RE:

Certificate of Need Application CN1401-008

West Tennessee Imaging, LLC

Dear Mr. Baker,

This will acknowledge our March 26, 2014 receipt of your supplemental response pertaining to West Tennessee Imaging, LLC's application for a Certificate of Need for the establishment of an Outpatient Diagnostic Center (ODC), the acquisition of magnetic resonance imaging (MRI) equipment and the initiation of MRI services by relocating an existing ODC with MRI service from 5130 Stage Road, Memphis, TN to a new facility in approximately 8,258 square feet of new construction of an existing two-story building at 7600 Wolf River Boulevard, Memphis (Shelby County), TN 38120, a distance of approximately ten (10) miles. Upon licensing of the proposed ODC, the license for the Outpatient Diagnostic Center of Memphis will be relinquished and MRI services at that location will cease.

Several items were found which need clarification or additional discussion. Please review the list of questions below and address them as indicated. The questions have been keyed to the application form for your convenience. I should emphasize that an application cannot be deemed complete and the review cycle begun until all questions have been answered and furnished to this office.

<u>Please submit responses in triplicate by 12:00 PM, March 31, 2014.</u> If the supplemental information requested in this letter is not submitted by or before this time, then consideration of this application may be delayed into a later review cycle.

1. Section A, Applicant Profile, Item 4

Discussion of the proposed organizational and business relationships among the entities is noted in page 5 of the application. Given the 80% ownership by Baptist Medical Group (BMG) and 15% Outpatient Imaging Affiliates (OIA, please submit documentation from the Tennessee Secretary of State that acknowledges and verifies the type of ownership & active registration of these organizations. In addition, please document the financial interests of BMG, OIA and the their parent company/owner in any other health care institution as defined in Tennessee Code Annotated, §68-11-1602. At a minimum, please provide the name, address, current status of licensure/certification, and percentage of ownership for each health care institution identified.

2. Section B, Project Description, Item 1

As noted in the description and item 23 of your supplemental response, the proposed ODC of the applicant LLC is approximately ten (10) miles of the current ODC operated by the manager of the LLC (OIA) and is located approximately 2.5 miles to 8.3 miles from existing Baptist Memorial Healthcare Corporation (BMH) sites with MRI units. Please provide a road map identifying the two locations involved in this relocation. It would also be helpful to have another map which identifies all the sites with MRI of the Baptist Memorial Hospital network."

The projected payor mix is noted. It appears that a classification of uninsured and/or self-pay may have been omitted based on the estimate of 395 imaging procedures to be provided to indigent patients in the first year of the project (item 21 of your 3/16/14 reply). Please clarify.

The clarification regarding the funding support (capital contributions) that will be needed from the partners to fund the estimated project start-up costs of approximately \$891,000 is noted. What considerations apply, if any, to the amount of funding that may be needed in order to secure provider participation agreements in Medicare, TennCare and other third party payor plans?

3. Section B, Project Description, Item II C. and Section C, Need, Item 1 (b)

The responses to Section C, Item 1(b) for the two additional certificate of need categories that apply to this project (ODC and MRI services) are noted. Please provide a CV or bio of the applicant's medical director, Dr. Robert Opticon that attests to his qualifications and active membership on the medical staff of the transfer agreement hospital - BMH-Memphis.

4. Section B, Project Description, Item 1I.E. 1.b. and Item 1I.E. 2

The list of the other medical imaging equipment to be purchased for CT, Ultrasound, Fluoroscopy and XRAY services at a total combined amount of approximately \$1,313,705 is noted. Together with the estimated \$2,170,000 cost of the 1.5T GE MRI unit (inclusive of service agreement), the total amount for fixed equipment is approximately \$3,483,705 compared to \$3,324,702 in the revised Project Costs Chart (page 19-R). Please clarify.

Revision of the MRI unit quote from the vendor, changing the expiration date from April 30, 2014 to June 20, 2014 is noted. As acknowledged by the applicant, the quote must be revised again in order to be effective on the date of the hearing of the application (at the earliest this would be June 25, 2014).

5. Section C. (Need) Item 5.

The table on pages 15-16 of the application ("Utilization of MRIs in the Service Area, 2010-2012") is noted. It appears that the utilization for the one (1) MRI unit at the Campbell Clinic-Unionville is missing (2,155 procedures in 2012). In addition, the units that are shared should be noted in the table. An example would be to identify the 1 unit

housed at Baptist Rehab-Briarcrest as being shared with the MSK Group-Briarcrest. Please also add a column to identify the percentage change of the MRI utilization for each entity in the table from 2010 – 2012. As a suggestion, contact Alecia Craighead, Stat III, HSDA at 615-253-2782 to discuss revision of the table in the manner requested.

6. Section C, Need, Item 6

In order to further help illustrate the comparison requested in question 17 of the 3/21/2014 HSDA supplemental questionnaire, please add columns to your table that shows the utilization of the MRI unit of the Outpatient Diagnostic Center of Memphis in CY2013 and CY2014 (estimated).

7. Section C. Economic Feasibility, Item 1 (Project Costs Chart)

Based on the verification of fixed equipment costs as requested above it # 4, additional revision of the form may be necessary. Please clarify.

8. Section C. Economic Feasibility, Item 2

The response provided previously in Section B, Project description, Item 1, page 3 of your 3/26/14 supplemental reply is noted. In addition, the attestations confirming funding support by the three members of the applicant LLC are noted in attachment H of the response. Please confirm that said response pertaining to the \$871,000 amount of capital contributions also applies to this item of the application, by including the remarks in a revised page R-20 of the application.

What is the applicant's estimate of professional fees of the radiologists for CY2013 that were associated with procedures performed for patients enrolled in Medicare – fees that may not included in the \$179,181 of Professional Fees amount in the Historical Data Chart?

9. Section C. (Economic Feasibility) Question 4 (Projected Data Chart)

Clarification of Other Expenses as to #Equipment Service" is noted. Please provide a revised page R-26 to be included with the application.

In accordance with Tennessee Code Annotated, §68-11-1607(c) (5), "...If an application is not deemed complete within sixty (60) days after written notification is given to the applicant by the agency staff that the application is deemed incomplete, the application shall be deemed void." In accordance with Tennessee Code Annotated, §68-11-1607(c) (5), "...If an application is not deemed complete within sixty (60) days after written notification is given to the applicant by the agency staff that the application is deemed incomplete, the application shall be deemed void." For this application the sixtieth (60th) day after written notification is May 20, 2014. If this application is not deemed complete by this date, the application will be deemed void. Agency Rule 0720-10-.03(4) (d) (2) indicates that "Failure of the applicant to meet this deadline will result in the application being considered withdrawn and returned to the contact person. Resubmittal of the application must be accomplished in accordance with Rule 0720-10-.03 and requires an additional filing fee." Please note that supplemental information must be submitted timely for the application to be deemed complete prior to the beginning date of the review cycle which the applicant intends to enter, even if that time is less than the sixty (60) days allowed by the statute. The supplemental information must be submitted with the enclosed affidavit, which shall be executed and notarized; please attach the notarized affidavit to the supplemental information.

Mr. Perry Baker March 28, 2014 Page 4

If all supplemental information is not received and the application officially deemed complete prior to the beginning of the <u>next review cycle</u>, then consideration of the application could be delayed into a later review cycle. The review cycle for each application shall begin on the first day of the month after the application has been deemed complete by the staff of the Health Services and Development Agency.

Any communication regarding projects under consideration by the Health Services and Development Agency shall be in accordance with T.C.A. ∋ 68-11-1607(d):

- (1) No communications are permitted with the members of the agency once the Letter of Intent initiating the application process is filed with the agency. Communications between agency members and agency staff shall not be prohibited. Any communication received by an agency member from a person unrelated to the applicant or party opposing the application shall be reported to the Executive Director and a written summary of such communication shall be made part of the certificate of need file.
- (2) All communications between the contact person or legal counsel for the applicant and the Executive Director or agency staff after an application is deemed complete and placed in the review cycle are prohibited unless submitted in writing or confirmed in writing and made part of the certificate of need application file. Communications for the purposes of clarification of facts and issues that may arise after an application has been deemed complete and initiated by the Executive Director or agency staff are not prohibited.

Should you have any questions or require additional information, please do not hesitate to contact this office.

Sincerely.

HSD Examiner

Enclosure/PJG



State of Tennessee Health Services and Development Agency

Andrew Jackson Building, 9th Floor, 502 Deaderick Street, Nashville, TN 37243 www.tn.gov/hsda Phone: 615-741-2364/Fax: 615-741-9884

March 20, 2014

Mr. Perry Baker, Chief Financial Officer Outpatient Imaging Affiliates 840 Crescent Center Drive, Suite 200 Franklin, TN 37067

RE:

Certificate of Need Application CN1401-008

West Tennessee Imaging, LLC

Dear Mr. Baker,

This will acknowledge our March 14, 2014 receipt of West Tennessee Imaging, LLC's application for a Certificate of Need for the establishment of an Outpatient Diagnostic Center (ODC), the acquisition of magnetic resonance imaging (MRI) equipment and the initiation of MRI services by relocating an existing ODC with MRI service from 5130 Stage Road, Memphis, TN to a new facility in approximately 8,258 square feet of new construction of an existing two-story building at 7600 Wolf River Boulevard, Memphis (Shelby County), TN 38120, a distance of approximately ten (10) miles. Upon licensing of the proposed ODC, the license for the Outpatient Diagnostic Center of Memphis will be relinquished and MRI services at that location will cease.

Several items were found which need clarification or additional discussion. Please review the list of questions below and address them as indicated. The questions have been keyed to the application form for your convenience. I should emphasize that an application cannot be deemed complete and the review cycle begun until all questions have been answered and furnished to this office.

<u>Please submit responses in triplicate by 4:00 PM, March 26, 2014.</u> If the supplemental information requested in this letter is not submitted by or before this time, then consideration of this application may be delayed into a later review cycle.

1. Section A, Applicant Profile Item 2 and Item 5 (name and address of contact person and management operating entity)

Your responses are noted. Please note the discrepancy of the contact's address and the zip code of the management entity with the address identified in the publication of the letter of intent and elsewhere bin the application. Please provide a revised application page correcting the name of the city and the correct zip code for these items.

2. Section A, Applicant Profile, Item 4

Discussion of the proposed organizational and business relationships among the entities is noted. Please provide the names of the members of West Tennessee Imaging, LLC whose percentage of ownership in the new LLC is in excess of 5% or greater.

The Memorandum of Understanding (MOU) between the parties for the establishment of a joint venture to be organized as a Tennessee Limited Liability Company is noted. Please identify the effective date of the execution of the proposed MOU.

The MOU also states that Outpatient Imaging Affiliates, LLC will relinquish the license of its existing ODC at 5130 Stage Road in Memphis, TN upon a license being issued for the proposed Imaging Center at 7600 Wolf River Blvd, Memphis, TN (also noted in published LOI and in Section B.I, page 5). There is no note or mention of MRI services being discontinued nor surrender of same first approved in the certificate of need, 89-CN-172. Please also provide a letter from Outpatient Imaging Affiliates saying it will surrender the license of the ODC and its rights to provide MRI services if this application is approved.

3. Section A, Applicant Profile, Item 5

Please provide a brief description of the management entity's expertise to operate this facility/service. Brief bio's outlining areas of expertise and experience of the senior management will be helpful.

Please provide a list of other healthcare facilities with which the management/operating entity has affiliations and/or management contacts, both current and proposed. In your response, please identify & briefly describe the manager's participation in any certificate of need projects that may be similar to the proposed ODC, including those projects involving the development and implementation of a joint venture similar in nature and/or scope to this proposal.

4. Section A, Applicant Profile, Item 6

The response to this item and copy of the proposed lease agreement for the site is noted.

Please be advised that the earliest possible date for the Agency to hear your CON application is (June 2014). The Agency requires that the applicant's control of the site must be enforceable through at least an option to lease at the time the Agency hears the application. Please provide a fully executed Option to Lease that at least includes the expected term of the lease, the anticipated lease payments and an expiration date which demonstrates the applicant has a legal interest in the property beyond the time of the HSDA hearing of the application

5. Section A, (Applicant Profile) Item 8

As noted in the applicant's letter of intent, the project involves the establishment of an ODC and the initiation of MRI services. Given the formation of a new LLC developed for this project, it appears that the applicant should also check the space next Item D. for the "Initiation of Health Care Service – MRI services" in addition to those items already checked. Please revise this page.

6. Section B, Project Description, Item 1

The executive summary with description of the project is noted. In addition to the information provided, additional information may be helpful. Please note the following:

The applicant states that the primary service area includes Shelby and Tipton Counties and patients may come from adjacent areas. Please identify the names of any Tennessee

counties and counties of other states that will comprise the applicant LLC's secondary service area for the proposed ODC. In your response, please provide a brief description of the number of patients and MRI procedures attributed to residents of the SSA during 2013 and the number projected for the first year of the project.

If this project is approved, does the applicant expect to receive and accept referrals from other area physicians in addition to referrals from physicians of the applicant LLC (Baptist Medical Group and Mid-South Imaging and Therapeutics)?

Please identify the key MRI modalities that will apply by quantifying the estimated MRI utilization by type, including arthograms, for the first full year of the project.

It appears that Medicare and TennCare/Medicaid may account for approximately 10% of the applicant's projected payor mix. Please include a brief description of the projected payor mix for the proposed ODC, with names of other major third party payors that will apply. In your response, please briefly describe the impact to the proposed payor mix resulting from the health insurance exchange/marketplace in Tennessee implemented as a result of the Affordable Care Act.

Please address the projected financial performance of the applicant LLC by briefly describing measures to be taken to ensure that the proposed ODC will be financially profitable and the expected timeframe for same.

The applicant states that the project will be financed by a combination of borrowing and cash contributions of the owners of \$1.4 million. On page 27 of the application, the applicant states that the partners will fund the entity with \$2.55 in working capital to cover the project start-up phase. Please clarify the amount that will be needed. In addition, please document same with a statement from an authorized representative who is empowered to obligate the members of the applicant LLC to the cash contributions that may be required (also applies to Section B, Economic Feasibility, Item 2).

7. Section B, Project Description, Item II.A.

The response indicates new construction of 6,986 square feet in lieu of the 8,258 square feet documented in the Square Footage (SF) chart on page 6 of the application. Please note that 8,258 SF is also the amount that would correspond to the \$2,353,530 estimated cost of new construction in the March 11, 2014 letter from the architect. Please clarify.

8. Section B, Project Description, Item II C. and Section C, Need, Item 1 (b)

As noted in the LOI and Project Description, the project involves the establishment of a new ODC and the initiation of MRI services. As such, please revise the response to Section B, II.C. to include a brief description of the need to provide MRI services. In addition, please add responses to Section C, Item 1(b) for the two additional certificate of need categories that apply to this project (specifically, these are criterion for both ODCs and MRI services). The criterion and standards are available on the HSDA link to www.tn.gov.

9. Section B, Project Description, Item 11.D.

It appears that the existing location of the ODC operated by the manager at 5130 Stage Street in Memphis has no room for expansion and operation of CT, Ultrasound, Fluoroscopy and XRAY imaging services. Please include a brief description of the need to expand services of the proposed ODC in these modalities.

10. Section B, Project Description, Item 1I.E. 1.b. and Item 1I.E. 2

Please include a list of the other medical imaging equipment related to CT, Ultrasound, Fluoroscopy and XRAY services to be operated at the proposed ODC inclusive of expected cost of acquisition by purchase or lease (please specify).

The applicant notes that it will purchase a GE Optima wide bore 1.5 Tesla MRI unit totaling to approximately \$2.2 million, including the \$1.5 million cost of the unit documented in the vendor quote in attachment B.II.E.2. Please revise the April 30, 2014 expiration date of the quote such that the quote will be effective on the date of the hearing of the application at the earliest in June 2014.

In addition, please also identify the individual amounts projected for installation, maintenance/service, and taxes. In your response, please address whether or not the applicant LLC may be responsible in full or part for any additional equipment taxes, such as a 2.3% tax medical equipment excise tax authorized in Section 4191 of the Internal Revenue Code effective December 31, 2012 as related to passage of the Affordable Care Act.

11. Section B, Project Description Item III.B.

According to the plot plan, the parking appears accessible to patients. However, please clarify if the parking is an improvement from the manager's existing ODC located at 5130 Stage Road in Memphis, TN.

12. Section C, Need, Item 1.a. (Construction, Renovation, Expansion, and Replacement of Health Care Institutions) Item 3.a

Please clarify by providing a copy of a fully executed option to lease between the applicant LLC and the building owner/landlord for the 8,250 space planned for the proposed ODC, inclusive of the general terms of the build-out allowance available for same.

13. Section C, Need, Item 1 (Specific Criteria, Magnetic Resonance Imaging (1.)(a.))

As noted, please include a response to the criteria and standards for MRI and ODCs.

14. Section C. (Need) Item 3.

Please provide a map of the entire state of Tennessee that more clearly identifies the applicant's declared service area counties, including those counties that comprise the secondary service area of the proposed ODC. Please provide distinctive highlighting/markings to readily differentiate the two primary service area counties from the other, secondary service area counties.

15. Section C. (Need) Item 4 (Socio-Demographic Information of the Service Area)

Your response to this item is noted. Using population data from the Department of Health website, Division of Health Statistics, Certificate of Need enrollee data from the Bureau of TennCare, and demographic information from the US Census Bureau, please revise the table to identify data for each county in your proposed service area for the current period calendar year 2014 to 2018.

Variable	Shelby	Tipton	Service	Tennessee
	County	County	Area	
Current Year 2014,				
Age 65+				
Projected Year 2018,				
Age 65+				
Age 65+, % Change				
Age 65+, % Total				
2014 Total Population				
2018, Total Population				
Total Pop. % Change				
TennCare Enrollees				
TennCare Enrollees as				
a % of Total				
Population				
Median Age				
Median Household				
Income				
Population % Below				
Poverty Level				

16. Section C. (Need) Item 5.

The table on pages 15-16 of the application ("Utilization of MRIs in the Service Area, 2010-2012") is noted. It appears that the utilization for the one (1) MRI unit at the Campbell Clinic-Unionville is missing (2,155 procedures in 2012). In addition, the units that are shared should be noted in the table. An example would be to identify the 1 unit housed at Baptist Rehab-Briarcrest as being shared with the MSK Group-Briarcrest. Please also add a column to identify the percentage change of the MRI utilization for each entity in the table from 2010 – 2012. As a suggestion, contact Alecia Craighead, Stat III, HSDA at 615-253-2782 to discuss revision of the table in the manner requested.

17. Section C, Need, Item 6

The utilization of the current MRI unit of the Outpatient Diagnostic Center of Memphis and the MRI unit to be located at the applicant LLC proposed ODC at 7600 Wolf River Boulevard in Memphis is noted. Please expand by identifying the breakout by primary modality or CPT code for the projected MRI utilization in years one and two of the project (note: the MRI modalities shown on page 27 of the application may suffice for this response, as appropriate). Please also compare to the utilization of the MRI unit located at the Outpatient Diagnostic Center of Memphis. In your response, please discuss the rationale for any significant change by procedure type, such as those that may result from new sources of referrals from physicians in the service area.

18. Section C. Economic Feasibility, Item 1 (Project Costs Chart)

As noted, please document the cost for both the medical equipment and the building lease by revising the medical equipment quote and by providing an option to lease for the 8,256 office space at the proposed Wolf River Boulevard ODC in Memphis. Please note that the agreements between the parties must be in effect on the date that the application will be heard by HSDA (June 2014 at earliest).

The 2/16/14 letter from Key Equipment Finance documents the availability of a commercial loan not to exceed \$2,520,000 for the purchase of equipment and \$2,000,000 for leasehold improvements for a total of \$4,520,000.00. Given the proposed loan, please explain why no amount is provided for the cost of financing and fees in your Project Cost Chart.

Per the March 11, 2014 letter from the architect, please note that the Department of Health has adopted the updated 2010 AIA Guidelines for Design and Construction of Hospital and Health Care Facilities in their review. Will build-out of the proposed ODC conform with same? Please clarify.

19. Section C. Economic Feasibility, Item 2

As noted in the preceding question, the source of funding from a commercial loan not to exceed \$4,520,000.00 has been appropriately documented in the attachments to the application. However, with a total project cost identified at \$10,123,989.00 and the applicant's statements in the application, it appears that Item F. should also be indicated based upon the applicant's statements that additional funding support is available from the partners/owners (see pages 6 and 27).

Please also provide an estimate of the total funding amount that may be required to financially support the proposed project. In your response, please identify the cash contributions or working capital that may apply, inclusive of obligations for repayment, reimbursement, etc. In addition, please also provide written documentation of same from an authorized principal or representative of the applicant LLC, as appropriate.

20. Section C, Economic Feasibility, Item 4 (Historical Data Chart)

As noted in response to Section C, Economic Feasibility, Item 9 on page 28, the applicant states that the proposed facility does not have an audited financial statement for 2013 and that the information provided in the Historical Data Chart pertains to the three ODCs that Outpatient Imaging Associates operates in Tennessee. It is unclear how the applicant LLC would have any audited financial statements for 2013 since the applicant LLC has been created as the organizational entity of the proposed Wolf River Boulevard ODC in Memphis. Please clarify.

In reviewing the 2013 financial statements of OIA provided in the attachment, it appears that the amounts for most of the key categories do not correspond to the amounts in the Historical Data Chart such as net operating revenue, operating expenses, and retirement of principal and interest expense. Please clarify.

Please describe the changes implemented to improve financial performance (net operating income less capital expenditures) between 2012 - 2013.

Why are the amounts for billing fees identical to the amounts for management fees?

How many patients and MRI procedures accounted for the \$101,833 of charity care in 2013?

How many MRI procedures of the Stage Road ODC were interpreted by radiologists in 2013 that corresponds to the \$179,181 of Professional Fees paid during the period?

21. Section C. (Economic Feasibility) Question 4 (Projected Data Chart)

In both charts (full ODC and MRI), Net Operating Income less capital expenditures of the applicant ODC is unfavorable in the first two years of the project. Please discuss what options the applicant has considered to improve the projected financial performance and reach a favorable operating margin. As a suggestion, the applicant should address what provisions have been considered for increasing the projected MRI and other imaging service utilization in years one and two in order to reach and exceed financial breakeven, and what consideration has been provided for reducing operating expenses such as the management fees, billing fees and other expenses in years one and two.

How many patients and imaging procedures account for the \$271,256 and \$282,732 amounts projected for charity care of the full project in the first and second years of the project (please provide for each service type of the ODC - MRI, CT, Ultrasound and Fluoroscopy).

Please identify the equipment that is being depreciated at the rate of \$789,668 per year in the chart.

The applicant has documented that a new 1.5 Tesla MRI unit will be purchased, installed and operated in the proposed ODC. However, equipment leases are identified in the full and MRI-Only Projected Data Charts for Year Two of the project (\$182,500 and \$100,000, respectively). Please clarify by identifying the equipment that will be leased by the applicant. In your response, please show the amounts by type equipment that may apply.

22. Section C. (Economic Feasibility) Item 5 and Item 6.B

Please note the updated HSDA chart for MRI and CT Gross Charges per Procedure/Treatment by quartiles for years 2010 through 2012 in the following table and compare to the gross charges of MRI and CT services of the proposed ODC:

Gross Charges per Procedure/Treatment
By Quartiles
YEAR = 2012

Equipment Type	1st Quartile	Median	3rd Quartile
CT Scanner	\$873.14	\$1,735.22	\$2,656.97
MRI	\$1,580.35	\$2,106.03	\$3,312.48
Source: Medical Equ	ipment Registry – 12	/06/2013	

23. Section C, Economic Feasibility, Item 10

The alternatives are noted. Please describe what is meant by the proposed ODC at 7600 Wolf River Boulevard in Memphis being more centrally located to the patient base by including an estimate of distance in miles and driving time as evidence of same.

Based on Baptist Memorial HealthCare's (BMH) participation in the proposed ODC, was any consideration given to sharing MRI services through a shared space arrangement with any of the BMH imaging sites located in Shelby County? In your response, please include the distances & driving times of same to the location of the proposed ODC.

Did the applicant consider simply relocating the existing ODC, Outpatient Diagnostic Center of Memphis in lieu of forming a new applicant LLC resulting in a change of ownership? Please discuss.

24. Section C, Contribution to Orderly Development, Item 3.

The staffing estimate of employees providing patient care at the proposed ODC is approximately four (4) full time equivalents at an annual total base salary of \$180,000. Adding benefits @ 35%, the total annual amount is approximately \$243,000. When compared to an average projected salary and wage expense of approximately \$545,000 per year in the first two years of the project, does the staffing estimate account for all patient care staff involved in the project? Please clarify.

25. Registration of Medical Equipment with HSDA

It appears that HSDA records indicate that the manager of the proposed LLC has registered a CT scanner located at its ODC on 5130 Stage Road in Memphis. However, no utilization has been reported. Since there is no reference to the CT scanner in the application (including reference in the Square Footage Chart on page 8), please clarify. If a CT scanner is in operation at the manager's current ODC, please report the utilization of this equipment to Alecia Craighead, Statistical Analyst III, HSDA as soon as possible on or before submission of your responses to this supplemental questionnaire. Please note the following:

According to 68-11-1607(i), "The owners of the following types of equipment shall register such equipment with the health services and development agency: computerized axial tomographers, lithotripters, magnetic resonance imagers, linear accelerators and position emission tomography. The registration shall be in a manner and on forms prescribed by the agency and shall include ownership, location, and the expected useful life of such equipment. The first registration of all such equipment shall be on or before September 30, 2002. Thereafter, registration shall occur within ninety (90) days of acquisition of the equipment. All such equipment shall be filed on an annual inventory survey developed by the agency. The survey shall include, but not be limited to, the identification of the equipment and utilization data according to source of payment. The survey shall be filed no later than thirty (30) days following the end of each state fiscal year. The agency is authorized to impose a penalty not to exceed fifty dollars (\$50.00) for each day the survey is late."

In accordance with Tennessee Code Annotated, §68-11-1607(c) (5), "...If an application is not deemed complete within sixty (60) days after written notification is given to the applicant by the agency staff that the application is deemed incomplete, the application shall be deemed void." In accordance with Tennessee Code Annotated, §68-11-1607(c) (5), "...If an application is not deemed complete within sixty (60) days after written notification is given to the applicant by the agency staff that the application is deemed incomplete, the application shall be deemed void."

For this application the sixtieth (60th) day after written notification is May 20, 2014. If this application is not deemed complete by this date, the application will be deemed void. Agency Rule 0720-10-.03(4) (d) (2) indicates that "Failure of the applicant to meet this deadline will result in the application being considered withdrawn and returned to the contact person. Resubmittal of the application must be accomplished in accordance with Rule 0720-10-.03 and

Mr. Perry Baker March 20, 2014 Page 9

requires an additional filing fee." Please note that supplemental information must be submitted timely for the application to be deemed complete prior to the beginning date of the review cycle which the applicant intends to enter, even if that time is less than the sixty (60) days allowed by the statute. The supplemental information must be submitted with the enclosed affidavit, which shall be executed and notarized; please attach the notarized affidavit to the supplemental information.

If all supplemental information is not received and the application officially deemed complete prior to the beginning of the <u>next review cycle</u>, then consideration of the application could be delayed into a later review cycle. The review cycle for each application shall begin on the first day of the month after the application has been deemed complete by the staff of the Health Services and Development Agency.

Any communication regarding projects under consideration by the Health Services and Development Agency shall be in accordance with T.C.A. 3 68-11-1607(d):

- (1) No communications are permitted with the members of the agency once the Letter of Intent initiating the application process is filed with the agency. Communications between agency members and agency staff shall not be prohibited. Any communication received by an agency member from a person unrelated to the applicant or party opposing the application shall be reported to the Executive Director and a written summary of such communication shall be made part of the certificate of need file.
- (2) All communications between the contact person or legal counsel for the applicant and the Executive Director or agency staff after an application is deemed complete and placed in the review cycle are prohibited unless submitted in writing or confirmed in writing and made part of the certificate of need application file. Communications for the purposes of clarification of facts and issues that may arise after an application has been deemed complete and initiated by the Executive Director or agency staff are not prohibited.

Should you have any questions or require additional information, please do not hesitate to contact this office.

Sincerely,

Jeff Grimm HSD Examiner

Enclosure/PJG

March 26, 2014 2:50pm

Quotation Number: PR6-C17593 V 5

Item No. Qty Catalog No.

Description

The Workflow Manager controls the execution of scan prescription, acquisition, processing, viewing and networking and may automate these steps, when requested by the user, through the selection of Linking and AutoScan. Auto Coil Prescription will automatically select the optimum subset of elements for scanning based on the prescribed FOV once the landmark has

been set, and AutoStart will automatically start the first acquisition as soon as the technologist exits the magnet room. In addition, AutoVoice ensures that consistent and repeatable instructions are delivered to the patient, and Auto Calibration will automatically acquire a calibration scan for ASSET and/or PURE when needed.

Processing steps are automatically completed with Inline Processing once the data have been reconstructed and the images saved into the database. For certain tasks, the user must accept the results or complete additional steps prior to saving the images. These automatic Inline Processing steps can be saved into the Protocol Library.

Inline Viewing allows the user to conveniently view, compare, and analyze images from the Scan Desktop by selecting the desired series from the Workflow Manager.

ScanTools and EX Tools for Optima MR450w comprise a comprehensive package of pulse sequences, core applications, imaging options and post-processing capability optimized for 1.5T performance. Please refer to the Optima MR450w product data sheet for detailed descriptions.

- Spin Echo and Fast-Spin Echo suites: SE, FSE, FSE XL, Fast Recovery FSE, FSE Inversion Recovery, 3D FSE, Single-Shot FSE, Single-Shot FSE IR.
- T1 FLAIR and T2 FLAIR CNS imaging.
- Gradient Echo suite: 2D and 3D GRE, 2D and 3D Fast GRE, 2D and 3D Spoiled PGR, 2D and 3D Fast SPGR.
- 2D and 3D Dual Gradient Echo body imaging.
- SPECIAL spectral-spatial, inversion-based fat suppression for 3D FGRE sequences.
- Echo Planar Imaging suite: SE-based EPI, GRE-based EPI, Single-Shot EPI, Multi-Shot EPI, Multi-Phase EPI, FLAIR EPI.
- Diffusion-Weighted EPI imaging with b-values up to 10,000 s/mm2.
- FIESTA steady-state imaging includes 2D FIESTA cardiac imaging, 2D FatSat FIESTA body imaging, 3D FIESTA Neuro imaging, 3D FatSat FIESTA coronary imaging.
- PROPELLER 3.0 motion-insensitive imaging with T1 FLAIR, T2, T2 FLAIR or PD-weighted contrast enabled in all scan planes.
- PROPELLER 3.0 DWI FSE-based diffusion weighted imaging with radial k-space

March 26, 2014 2:50pm

Ouotation Number: PR6-C17593 V 5

Item	No.	Otu	Catalog No	٥.

Description

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- 3D Cube 2.0 high-resolution FSE-based imaging with T1, T2, T2 FLAIR or PD-weighted contrast.
- 3D BRAVO high-resolution SPGR-based T1-weighted brain imaging.
- ReadyBrain automated scan prescription for brain exams.
- 2D and 3D MERGE multi-echo GRE-based CNS imaging.
- 3D COSMIC high-resolution GRE-based cervical spine imaging.
- 3D LAVA single breath-hold, high-resolution SPGR-based T1-weighted liver imaging with SPECIAL fat suppression.
- Time-of-Flight MRA Suite: 2D TOF, 2D Gated TOF, 3D TOF and Enhanced 3D TOF.
- Phase Contrast MRA Suite: 2D PC, 3D PC, Cine PC.
- SmartPrep automated bolus detection.
- Fluoro-Trigger MRA real time bolus monitoring with interactive triggering.
- QuickSTEP automated multi-station acquisition.
- iDrive Pro real time interactive imaging.
- Double/Triple IR black-blood cardiac imaging with/without fat suppression.
- FastCINE functional cardiac imaging with full R-wave coverage.
- 2D and 3D GradWarp automated distortion correction.
- ARC acceleration 3D data-based, auto calibrating parallel imaging technique with acceleration factors up to 3X.
- ASSET image-based parallel imaging technique with acceleration factors up to 3X.
- Cardiac gating/triggering, compensation, blood suppression, flow compensation.
- Respiratory gating/triggering, compensation.
- Pencil Beam Body Navigators track diaphragm motion to acquire data when diaphragm is within an acceptable range.
- DE Prep, IR Prep, T2 Prep.
- ZIP 1024, ZIP 512, 2X Slice ZIP, 4X Slice ZIP.
- IVI inline, interactive post-processing for vascular MRA data sets.
- Multi-Planar Volume Reformat inline, interactive post-processing for 3D volume data sets.
- FuncTool Performance advanced post processing algorithms: ADC maps, eADC maps, Negative Enhancement Integral, Positive Enhance Integral, Mean Time to Enhance, Signal Enhancement Ratio, Maximum Slope Increase, Maximum Difference Function, Correlation Coefficients, Diffusion Tensor, and 2D/3D CSI.
- MR Pasting automated integration of multi-station exams into a single image.

March 26, 2014 2:50pm

Quotation Number: PR6-C17593 V 5

Item No. Qty Catalog No.

Description

- Image Fusion overlays multiple images from separate acquisitions on one another for enhanced visualization.
- BrainStat GVF automated calculation of parametric maps for Cerebral Blood Flow, Blood Volume, Mean Transit Time and Time to Peak signal intensity using a gamma variant fitting algorithm.
- BrainStat AIF calculation of parametric maps for Cerebral Blood Flow, Blood Volume, Mean Transit Time and Time-to-Peak signal intensity using an automated or manually specified arterial input function algorithm.
- eDWI enhanced SNR diffusion-weighted imaging for brain and liver includes Multi-B, Smart NEX, "3 in 1", and tetrahedral techniques.
- SWAN 2.0 enhanced SNR T2*-weighted susceptibility imaging multi-echo, 3D GRE-based technique.
- Diffusion Tensor imaging with up to 150 different diffusion directions enables Fractional Anisotropy maps, ADC maps, and T2-weighted TRACE maps.
- FiberTrak post-processing for the generation of Eigen-vector information from DTI data sets.
- PROBE PRESS single voxel proton brain spectroscopy using the PRESS sequence.
- IDEAL 2D FSE and 3D GRE-based fat and water separation imaging with T1, T2, and PD-weighted contrast generates water-only, fat-only, in-phase and out-of-phase images from a single scan.
- 3D LAVA Flex high resolution SPGR-based fat and water separation liver imaging with T1-weighted contrast generates water-only, fat-only, in-phase and out-of-phase images from a single breath-hold scan.
- StarMap T2* decay curve imaging using a variable echo, 3D GRE-based technique enables gray scale and color maps of the T2* signal decay across echoes.
- Inhance 2.0 non-contrast MRA suite: Inflow IR (3D FIESTA-based), 3D Velocity (3D PC-based), 2D Inflow (2D TOF-based) and 3D DeltaFlow (3D FSE-based).
- TRICKS dynamic, high resolution 3D volume MRA eliminates the need for timing or triggering.
- Cine IR multi-TI myocardial imaging enables tissue characterization and approximation of the optimal null point for myocardium signal.
- 2D PS MDE enables delayed myocardial imaging with IR suppression. PS-MDE is not compatible with ReportCard 4.0.
- FGRE TC multi-phase myocardial imaging with reduced artifact sensitivity for viability assessment.
- BB SSFSE Single Shot FSE-based whole heart imaging with black blood contrast.

Item No. Qty	Catalog No.	Description
2 1	S4500WE	Optima MR450w 1.5T Magnet, Gradient, RF Body Coil and Dock Collector for 16-Channel System
		To improve the patient experience and provide high image quality, no other component of an MRI system has greater impact than the magnet. The Optima MR450w system features a short, wide bore magnet that delivers a large field of view The magnet geometry has been optimized to reduce patient anxiety by providing more space in the bore and more exams with the patient's head outside of the magnet. The 50cm field of view provides uniform image quality and can reduce examtimes since fewer acquisitions may be necessary to cover large areas of anatomy. Complemented by GE's active shielding technology, the Optima MR450w has very flexible installation specifications to provide easy siting. And with zero-boil-off magnetechnology, helium refills are effectively eliminated, thus reducing operating costs an maximizing uptime.
		 Manufactured by GE Healthcare. Operating field strength 1.5T (63.86 MHz). Active magnet shielding. Zero boil-off Cryogens. Magnet length 145cm. Patient Aperture 76 cm. Patient Bore Diameter 70cm. Patient Bore Length 105cm. Maximum Field of View 50 cm. Magnet Homogeneity at 47 cm x 42 cm (R x Z) volume <= 1.25. Fringe field (axial x radial). 5 Gauss = 4.0 m x 2.5 m. 1 Gauss = 6.2 m x 3.7 m.
		eXtreme Gradient Platform: The powerful gradient performance of the Optima MR450w system enables high resolution and fast acquisitions. The gradient platform includes the eXtreme Gradient Driver (XGD) and the optimized large field of view gradient coil. The eXtreme Gradient Drive (XGD) is housed within a single cabinet to

advanced applications.

simplify installation. Each axis is driven by a dedicated power supply and amplifier to

ensure consistent performance for all image orientations. By incorporating a water-cooled architecture, this system supports continuous peak operation with a 100% duty cycle and excellent stability for both long-term serial studies and

tem No.	Qty	Catalog No.	Description
			 Peak Gradient Amplitude of 34 mT/m per axis. Peak Gradient Slew Rate of 150 T/m/s per axis.
			Quiet Technology: GE has implemented Quiet Technology on critical components of the Optima MR system to reduce acoustic noise and improve the patient environment This technology enables full use of the eXtreme Gradient Platform for excellent image quality, while maintaining a safe environment for the patient. The technology encompasses the gradient coil, RF body coil, and magnet mounting.
			The Optima MR450w Dock and Switch Collector is critical for the detachable table. The MR450w Liberty Dock provides the interface between the magnet and Express Patient table.
3	1	S7505EJ	MR450w Preinstallation Collector and Cable Concealment Kit
			 The Preinstallation Collector delivers to the site in advance of the magnet and main electronic components. This facilitates the later delivery and installation of supporting electronics. The following are the main components in the Preinstallation collector: Heat exchange cabinet for distribution of chilled water. Primary Penetration wall panel for support of the penetration cabinet. Secondary Penetration wall panel for support of gradient filters, helium cables and chilled air and water. Helium cryocooler hose kit.
			The Optima MR450w Cable Concealment Kit accommodates a wide-range of scan room ceiling heights and is designed to provide a clean-look installation by concealing the overhead cabling from view.
4	1	S4500YH	Optima MR450w Cable Configuration - A
			To accommodate various electronic and scan room configurations and sizes, the MR450w has preset lengths of cables and connector kits to speed system installation. This cable collection is compatible with fixed and relocatable building configurations.
5	1	M1060MA	Vibroacoustic Dampening Kit
			Material in the Vibroacoustic Dampening Kit can significantly attenuate the transmission of gradient-generated acoustic noise through the building structure to nearby areas, including adjacent rooms and floors above or below the MR suite. If this kit is applied during the installation of a new magnet, no additional service charges are necessary. However, installation of the Vibroacoustic Dampening kit under an existing magnet requires special steps. The steps to prepare the site and steps to install, such as modifications to the RF screen room, and other magnet rigging, modifications to the RF screen room, and other finishing work, are not covered in the

Item No.	Qty	Catalog No.	Description		
			pricing.		
6	1	M7000WL	Main Disconnect Panel		
			The Main Disconnect Panel safeguards the MR system's critical electrical components, by providing complete power distribution and emergency-off control.		
7	1	M7000WT	IRD - In Room Display Controls - English		
			English version of the control panel for use with the seven segment digital display on the front of the MR450w magnet. The digital display shows patient landmark and scan location, scan time, and connection of patient respiratory, cardiac, and peripheral triggering devices. The control panel includes backlit buttons for easy visualization in darkened rooms. In addition, the buttons include rim-enhancing LEDs to signal which button to press for simplified workflow and ease of use.		
			This hardware interface includes the ergonomically designed keyboard, two-way communication and voice command module between the technologist and patient, activation buttons for patient table control, acquisition interface to initiate the scanner, and emergency stop switch.		
8	1	M1000MW	Operator's Console Table		
			Wide table designed specifically for the color LCD monitor and keyboard.		
9	1	M3335CB	1.5T Calibration Phantom Kit		
			This 1.5T calibration kit contains a large volume shim phantom, a daily quality assurance phantom, an echo-planar calibration phantom, and the associated loader shells.		
10	1	M3335CA	Calibration Kit Phantom Holder Cart		
11	1	S7524DF	Essential Coil Package II - 1.5T		
			The Essential Coil Package II includes the following: 16-channel Head/Neck/Spine Array 8-channel Body Array 3-channel Shoulder Array Quad Extremity Coil The Head/Neck/Spine (HNS) Array delivers convenience without compromise. This		
			29-element coil serves as a high-resolution brain coil, high-density neuro-vascular array, and a multi-element spine coil in one convenient package. Designed to accommodate multi-dimensional parallel imaging in any scan plane, this coil yields		

tem No.	Qty	Catalog No.	Description
			unprecedented imaging speed and superior image quality, thanks in large part to a unique element arrangement that focuses the signal over the anatomy of interest.
			The 8-channel Body Array is designed for high definition MR imaging of the chest, abdomen and pelvis. This 12-element, quadrature phased-array coil provides extensive coverage, enabling multi-station anatomical and vascular imaging of the chest-abdomen or abdomen-pelvis without repositioning the coil. The array is optimized for use with ASSET acceleration for enhanced breath-hold imaging procedures.
			The 3-channel Shoulder Array offers the increased signal-to-noise characteristic of phased-array technology, along with a unique sleeve design that delivers exceptiona joint-imaging capabilities. The coil provides clear definition of the shoulder joint, specifically the head of the humerus, clavicle, acromion, supraspinatus muscle and ligaments. Patient comfort pads and restraining straps are included.
			The transmit/receive design of the Quad Extremity Coil helps ensure optimal results in studies of the knee, ankle and foot. Its unique anterior extension increases the imaging volume for thorough evaluations in dorsi-flexed foot and ankle studies, covering FOVs up to 30 cm for the foot and ankle, and up to 20 cm for the knee.
12	1	M3335LZ	1.5T 8-Channel Brain Array - Invivo
			The Brain Array is designed for high-definition MR imaging of the brain. This 8-element quadrature phased array provides 24 cm of coverage, facilitating both anatomical and vascular imaging of the brain. The coil is optimized for use with ASSET acceleration for enhanced neuro imaging.
13	1	M3335LJ	1.5T 8-Channel Wrist Array - Invivo
			The 8-Channel Wrist Array generates high definition MR wrist images. The one-piece, ovoid hinged design is optimal for small-FOV imaging and provides 12-cm S/I coverage. The coil can be positioned overhead or at the patient's side, vertically or horizontally. The coil is optimized for ASSET imaging to improve acquisition times.
14	1	E8912CA	GE Optima MR450w Heat Exchangers - 49kW (20 Tons)
			Cooling for your GE Healthcare MR system has never been so easy. GE Healthcare had partnered with the Glen Dimplex Group, a world leader in cooling systems, to offer heat exchangers designed to meet the needs of your Discovery MR System. Now you can look to GE Healthcare for your entire MR purchase and support.
			This heat exchanger is highly reliable and the only unit verified to perform with the new platform of GE Healthcare MR systems. As part of your integrated GE Healthcare solution, you'll work with a single contact throughout the whole installation. A Project

Item No. Qty Catalog No.

Description

Manager of Installation will help with building layout, room designs, delivery and installation – every step until your system is ready to scan. Our team will work seamlessly with architects, contractors and your internal team to help ensure timely, cost-effective completion.

Once your cooling system is running, you'll get fast, highly-skilled service support managed through GE Healthcare - with the same quality and response time you expect from your MR system.

FEATURES AND BENEFITS

- Designed to provide stable fully dedicated cooling for your MR system's needs
- Water/glycol outdoor-air-cooled heat exchangers to support your highest exam volumes and your full range of diagnostic procedures
- Redundant fluid pumps with automatic switchover let you keep operating with no loss of cooling even if one pump goes down
- Quad compressor, dual tandem refrigeration circuit design saves on energy while your system smoothly transitions through the 10% to 100% heat load capacity cycles of patient scanning and idling
- Quiet operation between patient exams and overnight ideal for facilities in residential areas
- Comes with installation support, installation visits, preventative maintenance visit and 1 full year of parts and labor warranty
- Installation support includes: support through GE's Project Manager of Install, GE's Design Center, technical support from the Glen Dimplex company, two (2) installation visits
- Comprehensive and quality service rapidly delivered through our CARES service solution
- 65 gallons of 100% glycol concentrate for complete system filling and diluting
- Wall mounted remote display panel provides the ability to monitor the system's operation and indicates possible system errors
- Filter kit with flow meter helps to ensure purity of water prior to entry to the MR system
- Highly recommended that Vibration Isolation Spring Kit (E8911CJ) be added for systems that will be roof top mounted

SPECIFICATIONS

- Net Cooling Capacity: 49 kW / 20 Ton
- Maximum Coolant Flow: 35 gpm (132 l/m)
- Coolant Outlet Temperature: 48 F (8.9 C)

Item No.	Qty	Catalog No.	Description
			 Coolant Temp Stability: E 1.8 F (E1.0 C) Max Coolant Pressure: 70 Psi (4.8 Bar) Refrigerant: R407C Ambient Temp Range: -20 to 120 F (-30 to 50 C) Condenser Air Flow (Approx): 18,000 Cfm Tank Capacity: 100 gal (378 l) Flow Meter Range: 4-40 gpm Filters: 50 micron cartridge filters Supply Voltage: 460v / 3 phase / 60 Hz Coolant Connections: 2" NPTF Overall Size (L x W x H) 44" x 136" x 84.5"
			GE Optima MR450w 1.5T MR System
			NOTES:
			Item is NON-RETURNABLE and NON-REFUNDABLE
15	1	E8803BE	Physician's Chair with Padded Arms
			Physician's chair has padded arms for comfort and comes in a charcoal gray color that blends with any environment. Chair adjusts from 16.75 in. to 21 in. (42.5 cm x 53.3cm) and is only for use in the MR Control Room. Weighs 45 lbs.
16	1	W0100MR	7 Day MR TiP Onsite System Training
			MR Onsite Training for a new MR system
			 One 4 day onsite visit to coincide with system start-up. One 3 day onsite follow-up visit 6-8 weeks post system start up.
			During the first visit, the applications specialist will work with the medical and technical staff on system operation and patient procedures. The training produces the best results when a dedicated core group of 2-4 MR technologists complete the session with a modified patient schedule. It is suggested that key physicians are available to participate in the protocol implementation and image quality review sessions. By the end of this visit, the core group should be able to perform the routine patient procedures.
			The 3 day revisit is suggested after the staff has run the system for 6-8 weeks, however this is flexible based on the site needs. The training will focus on the intermediate and advanced functions of the system or special needs of the customer.

SUPPLEMENTAL-#1 March 26, 2014

Item No.	Qty	Catalog No.	Description				
			The training produces the best results when the same dedicated core group of 2-4 MR technologists from the initial visit complete the session with a modified patient schedule.				
			This training program must be scheduled and completed within 12 months after the date of product delivery.				
			Quote Summary:				
			Total Quote Net Selling Price	\$1,499,999.99			
(Quoted prices do not reflect state and local taxes if applicable. Total Ne Includes Trade In allowance, if applicable.)		pplicable. Total Net Selling Price					

March 26, 2014 2:50pm



GE Healthcare

NOTICE REGARDING NUCLEAR MEDICINE PRODUCTS

This notice applies to the following GE Healthcare Nuclear Medicine products only: Discovery NM 670 and Discovery NM 630 (the "Products").

GE Healthcare has reclassified several advanced software tools and associated documentation to a GE Healthcare Technical Service Technology package that we feel will bring greater value and interest to our customers. GE Healthcare will continue to provide trained customer employees with access to the GE Healthcare Technical Service Technology package under a separate agreement.

GE Healthcare will continue to provide customers and their third party service providers with access to software tools and associated documentation in order to perform basic service on the Products upon a request for registration for such access. This will allow GE Healthcare to react faster to the future service needs of GE Healthcare customers.

If you have any questions, you can contact your sales Service Specialist.

March 26, 2014 2:50pm



GE Healthcare

For Third Party Products and Services Only: If GE Healthcare has agreed to provide any third party products and/or services (other than GE Healthcare accessories and supplies) to Customer as part of the Quotation, including but not limited to any Commitment Account/Non-Inventory items, (i) GE Healthcare is acquiring such products and/or services on Customer's behalf and not as a supplier of such products and/or services; (ii) GE Healthcare makes no warranties of any kind, express or implied, with respect to such products and/or services (warranties, if any, on such products and/or services will be provided by the manufacturer or service provider, as applicable); (iii) Customer is solely responsible for ensuring that the acquisition and use of such products and/or services is in compliance with applicable laws and regulations, including applicable FDA regulations; and (iv) Customer is solely responsible for any and all claims resulting from or related to the acquisition or use of such products and/or services.

<u>For Mobile Systems Only:</u> For products that are approved by GE Healthcare for use as transportable, relocatable and mobile systems, GE Healthcare will deliver the system to Customer's van manufacturer and furnish final assembly services to place the system in Customer's van. At the time of order, Customer must notify GE Healthcare of the van manufacturer to which the system is to be shipped. It is Customer's responsibility to make arrangements with the van manufacturer for delivery of the van and to comply with any additional planning requirements of the van manufacturer. For MR systems, GE Healthcare's product tests will be performed when assembly in the van is completed and MR system operation will be re-checked when the van is delivered to Customer.

For MR Products Only:

- a. MR Systems. Customer will provide a site and surroundings suitable for installation and operation of an MR system producing strong magnetic and electric fields, and Customer will be required to provide a water chiller meeting GE Healthcare specifications.
- b. Magnetic Resonance Imaging (MR) Site. Customer will provide a site and surroundings suitable for installation and operation of an MR system producing strong magnetic and electric fields, and Customer will be required to provide a water chiller meeting GE Healthcare specifications. Customer acknowledges that the magnetic fields of MR systems attract ferro-magnetic articles and are capable of rapidly accelerating such articles toward the magnet, creating corresponding physical danger to persons in the vicinity and possible damage to such systems. In addition, the magnetic and radio frequency fields of such systems may adversely affect the operation of pacemakers, equipment containing magnetic reed switches, and aneurysm or surgical clips.
- c. Magnet Maintenance and Cryogens. The price of MR systems includes all cryogens necessary for final assembly and testing of the MR system. Cryogen loss attributable to power loss or water chiller failure for the MR system's shield cooler or condenser system during installation is Customer's responsibility, and Customer will be billed for cryogen replacement plus the associated cryogen transfill labor at GE Healthcare's then applicable rates. After final assembly, Customer will be responsible to supply and install all cryogens, unless cryogen loss is caused by a defect in material or workmanship within the scope of GE Healthcare's applicable MR system warranty. Following final assembly, provided cryogen boil-off rates have not been adversely affected by actions of Customer, its representatives or contractors, or any third party not authorized by GE Healthcare, GE Healthcare will provide a super-conductive magnet which, at the expiration of the warranty period, has cryogen boil-off rates not exceeding those stated in GE Healthcare's applicable magnet specifications. GE Healthcare has no responsibility to Customer for cryogen boil-off rates subsequent to expiration or termination of the applicable MR system warranty, unless Customer elects to receive magnet maintenance and cryogen service under a separate agreement with GE Healthcare.

For PET and PET/Cyclotron Systems Only: For PET Cyclotron/Chemistry systems, any target or gas processing system purchased with the system must be installed with the original system prior to system checkout. Installation after this time will require a separate quotation by GE Healthcare and is billable to Customer at GE Healthcare's then-current rates. Further, any system storage fees associated with this order are solely the responsibility of Customer. PET Cyclotron/Chemistry systems are sold for

March 26, 2014

use in generating radiotracers for diagnostic imaging applications only. GE Healthcare does not sell or intend such systems or 2:50pm any part(s) thereof for use in radiation therapy.

For PET/CT and PET Radiopharmacy Sites Only: Customer will provide a site and surroundings suitable for installation and operation of such a systems using and/or producing radiation. Further, Customer will be responsible for obtaining all required federal, state, and local licenses and permits for radioactive sealed sources and radioisotopes used with such system. If permitted under applicable licensing requirements, GE Healthcare representatives will work under Customer's license and supervision when handling any radioactive substance for which a license is required, or Customer will provide such handling itself under an appropriate license. Customer will provide all radioactive sources and radioisotopes for calibration and performance checks of such system. Customer acknowledges that such systems utilize radioactive materials. As with all systems utilizing radioactive materials, hazards exist creating possible physical danger to persons in the vicinity.

<u>For iCenter and iLing Only</u>: GE Healthcare will provide iCenter and/or iLing information management Services at no additional charge during the term of the applicable product warranty, subject to then-applicable terms and conditions for such services.

For Healthcare IT Products Only:

- a. Payment. Unless specified separately in the Quotation, fees for non-GE Healthcare software and hardware shall be due one hundred percent (100%) on delivery of the applicable software or hardware.
- b. Audit Rights. Upon forty-five (45) days notice GE Healthcare may audit Customer's use of the software. Customer agrees to cooperate with GE Healthcare's audit and to provide reasonable assistance and access to information. If the audit uncovers underpaid or unpaid fees owe to GE Healthcare, Customer agrees to pay those fees and GE Healthcare's costs incurred in conducting the audit within thirty (30) days of written notification of the amounts owed. If Customer does not pay the amounts owed, GE Healthcare may terminate Customer's license to use the applicable software. Customer agrees to permit GE Healthcare to obtain certain reasonable information regarding the users and other use information regarding the software. All of such information shall be treated as confidential information, shall be used solely for the purposes of technical support and auditing the use of the software, and shall not be disclosed to any third party (other than third-party vendors of software licensed to Customer under this Agreement) without Customer's consent.

March 26, 2014 2:50pm



GE Healthcare General Terms and Conditions

GE Healthcare

References herein to "Products" and "Services" mean the Products (including equipment and software) and Services identified on the applicable GE Healthcare Quotation ("Quotation").

1. General Terms

- 1.1. <u>Confidentiality</u>. Each party will treat the terms of this Agreement and the other party's written, proprietary business information as confidential if marked as confidential or proprietary. Customer will treat GE Healthcare (and GE Healthcare's third party vendors') software and technical information as confidential information whether or not marked as confidential and shall not use or disclose to any third parties any such confidential information except as specifically permitted in this Agreement or as required by law (with reasonable prior notice to GE Healthcare). The receiving party shall have no obligations with respect to any information which (i) is or becomes within the public domain through no act of the receiving party in breach of this Agreement, (ii) was in the possession of the receiving party prior to its disclosure or transfer and the receiving party can so prove, (iii) is independently developed by the receiving party and the receiving party can so prove, or (iv) is received from another source without any restriction on use or disclosure.
- 1.2. Governing Law. The law of the state where the Product is installed or the Service is provided will govern this Agreement.
- 1.3. <u>Force Majeure</u>. Neither party is liable for delays or failures in performance (other than payment obligations) under this Agreement due to a cause beyond its reasonable control. In the event of such delay, the time for performance shall be extended as reasonably necessary to enable performance.
- 1.4. Assignment; Use of Subcontractors. Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, however, that either party may transfer and assign this Agreement without the other party's consent to any person or entity (except to a GE Healthcare competitor) that is an affiliate of such party or that acquires substantially all of the stock or assets of such party's applicable business if any such assignees agree, in writing, to be bound by the terms of this Agreement. Subject to such limitation, this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. GE Healthcare may hire subcontractors to perform work under this Agreement, provided that GE Healthcare will at all times remain responsible for the performance of its obligations and duties under this Agreement.
- 1.5. <u>Amendment; Waiver; Survival</u>. This Agreement may be amended only in writing signed by both parties. Any failure to enforce any provision of this Agreement is not a waiver of that provision or of either party's right to later enforce each and every provision. The terms of this Agreement that by their nature are intended to survive its expiration (such as the confidentiality provisions included herein) will continue in full force and effect after its expiration.
- 1.6. <u>Termination</u>. If either party materially breaches this Agreement and the other party seeks to terminate this Agreement for such breach, such other party shall notify the breaching party in writing, setting out the breach, and the breaching party will have sixty (60) days following receipt of such notice to remedy the breach. If the breaching party fails to remedy the breach during that period, the other party may, subject to the terms of Section 1.4.5 of the GE Healthcare Product Terms and Conditions, terminate this Agreement by written notice to the breaching party. For the avoidance of doubt, this Agreement is not terminable for convenience and may only be terminated in accordance with this Agreement. If GE Healthcare determines in good faith at any time that there are legal or regulatory compliance and/or material credit issues with this Agreement, if any, GE Healthcare may terminate this Agreement (including warranty services hereunder) immediately upon written notice to Customer.

2. Compliance

- 2.1. <u>Generally</u>. This Agreement is subject to (i) GE Healthcare's on-going credit review and approval and (ii) GE Healthcare's on-going determination that Customer and this Agreement comply with all applicable laws and regulations, including those relating to workplace safety, FDA matters, Federal Healthcare Program Anti-kickback compliance, export/import control and money laundering prevention. CUSTOMER ACKNOWLEDGES THAT THE PRODUCTS ARE OR MAY BE SUBJECT TO REGULATION BY THE FDA AND OTHER FEDERAL OR STATE AGENCIES. CUSTOMER SHALL NOT USE OR PERMIT THE PRODUCTS TO BE USED IN ANY MANNER THAT DOES NOT COMPLY WITH APPLICABLE FDA OR OTHER REGULATIONS OR FOR ANY NON-MEDICAL, ENTERTAINMENT, OR AMUSEMENT PURPOSES. Further, Customer represents that it is purchasing the Products for its own use consistent with the terms of this Agreement and that it does not intend to re-sell the Products to any other party or to export the Products outside the country to which GE Healthcare delivers the Products.
- 2.2. Cost Reporting. Customer represents and warrants that it shall comply with (a) the applicable requirements of the Discount Statutory Exception, 42 U.S.C. 1320a-7b(b)(3)(A), and the Discount Safe Harbor, 42 C.F.R. § 1001.952(h), with respect to any discounts Customer may receive under this Agreement and (b) the Warranties Safe Harbor, 42 C.F.R. § 1001.952(g), with respect to any price reductions of an item (including a free item) which were obtained as part of a warranty under this Agreement. Customer agrees that, if Customer is required to report its costs on a cost report, then (i) the discount must be based on purchases of the same good bought within a fiscal year; (ii) Customer must claim the benefit in the fiscal year in which the discount is earned or in the following year; (iii) Customer must fully and accurately report the discount in the applicable cost report; and (iv) Customer must provide, upon request, certain information required to be provided to the Customer by GE Healthcare as a seller or offeror, as appropriate. If Customer is an individual or entity in whose name a claim or request for payment is submitted for the discounted items, the discount must be made at the time of the sale of the good; and the Customer must provide, upon request, certain information required to be provided to the Customer by GE Healthcare as a seller or offeror, as appropriate. GE

March 26, 2014

Healthcare agrees to comply with the applicable requirements for sellers or offerors under the Discount Safe Harbor, as appropriate.

2:50pm

- 2.3. <u>Site Access Control and Network Security</u>. Customer shall be solely responsible for establishing and maintaining security, virus protection, backup and disaster recovery plans for any data, images, software or equipment. GE Healthcare's Services do not include recovery of lost data or images. Customer shall comply with all applicable laws and regulations related to site access control.
- 2.4. <u>Environmental Health and Safety</u>. Customer shall provide and maintain a suitable, safe and hazard-free location and environment for the GE Healthcare Products and Services in material compliance with any written requirements provided by GE Healthcare, perform GE Healthcare recommended routine maintenance and operator adjustments, and ensure that any non-GE Healthcare provided Service is performed by, and GE Healthcare Products are used by, qualified personnel in accordance with applicable user documentation. GE Healthcare shall have no obligation to perform Services until Customer has complied with its obligations under this Section.
- 2.5. <u>GE Healthcare-Supplied Parts</u>. GE Healthcare can make no assurances that Product performance will not be affected by the use of non-GE Healthcare-supplied parts. In some instances, use of non-GE Healthcare-supplied parts may affect Product performance or functionality.
- 2.6. <u>Training</u>. Any Product training identified in the Quotation shall be in accordance with GE Healthcare's then-current training program offerings and terms. Unless otherwise stated in the catalog description, training must be completed within twelve (12) months after (i) the date of Product delivery for training purchased with Products and (ii) the start date for Services for training purchased with Services. If training is not completed within the applicable time period, GE Healthcare's obligation to provide the training will expire without refund.
- 2.7. <u>Medical Diagnosis and Treatment</u>. All clinical and medical treatment and diagnostic decisions are the responsibility of Customer and its professional healthcare providers.

3. Disputes; Liability; and Indemnity

- 3.1. <u>Waiver of Jury Trial</u>. EACH PARTY EXPRESSLY WAIVES ALL RIGHTS TO A JURY TRIAL IN CONNECTION WITH ANY DISPUTE ARISING UNDER THIS AGREEMENT.
- 3.2. <u>Limitation of Liability</u>. GE HEALTHCARE'S (AND ITS REPRESENTATIVES') LIABILITY UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED: (A) FOR PRODUCTS OR SERVICES OTHER THAN SERVICES UNDER AN ANNUAL SERVICE CONTRACT, THE PRICE FOR THE PRODUCT OR SERVICE THAT IS THE BASIS FOR THE CLAIM; OR (B) FOR ANNUAL SERVICE CONTRACTS, THE ANNUAL CONTRACT PRICE FOR THE SERVICE THAT IS THE BASIS FOR THE CLAIM. NEITHER CUSTOMER NOR GE HEALTHCARE (NOR THEIR RESPECTIVE REPRESENTATIVES) SHALL BE LIABLE TO THE OTHER PARTY UNDER THIS AGREEMENT (OR OTHERWISE IN CONNECTION WITH THE PRODUCTS AND SERVICES) FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR LOSS OF PROFITS, REVENUE, TIME, OPPORTUNITY OR DATA, WHETHER IN AN ACTION IN CONTRACT, TORT, PRODUCT LIABILITY, STATUTE, EQUITY OR OTHERWISE. THE LIMITATION OF LIABILITY AND EXCLUSION OF DAMAGES SHALL APPLY EVEN IF THE LIMITED REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.
- 3.3. IP Indemnification. GE Healthcare will defend, indemnify and hold harmless Customer from any third party claims for infringement of intellectual property rights arising from Customer's use of GE Healthcare manufactured equipment and/or GE Healthcare proprietary software listed in the Quotation in accordance with their specifications and within the license scope granted in this Agreement. If any such claim materially interferes with Customer's use of such equipment and/or software, GE Healthcare shall, at its option: (i) substitute functionally equivalent non-infringing products; (ii) modify the infringing Product so that it no longer infringes but remains functionally equivalent; (iii) obtain for Customer at GE Healthcare's expense the right to continue to use the infringing Product; or (iv) if the foregoing are not commercially reasonable, refund to Customer the purchase price, as depreciated (based on five (5) year straight-line depreciation), for the infringing Product. Any such claims arising from Customer's use of such infringing Product after GE Healthcare has notified Customer to discontinue use of such infringing Product and offered one of the remedies set forth in clauses (i) through (iv) above are the sole responsibility of Customer. This Section represents Customer's sole and exclusive remedy (and GE Healthcare's sole and exclusive liability) regarding any infringement claim associated with such infringing Product. The above indemnification obligation is conditional upon Customer providing GE Healthcare prompt written notice of the infringement claim after receiving notice of such claim, allowing GE Healthcare to control the defense of such claim, and reasonably cooperating with GE Healthcare in such defense. Notwithstanding any other provision in this Agreement, GE Healthcare shall not have any obligation to Customer hereunder for infringement claims based on or resulting from: (a) use of such infringing Product in combination with any computer software, tools, hardware, equipment, materials, or services, not furnished or authorized in writing for use by GE Healthcare; (b) use of such infringing Product in a manner or environment or for any purpose for which GE Healthcare did not design or license it, or in violation of GE Healthcare's use instructions; or (c) any modification of such infringing Product by Customer or any third party. GE Healthcare shall not be responsible for any compromise or settlement or claim made by Customer without GÉ Healthcare's written consent. This indemnification obligation is expressly limited to the GE Healthcare manufactured equipment and/or GE Healthcare proprietary software listed in the Quotation.

4. Payment and Finance

- 4.1. <u>Generally.</u> The payment and billing terms for the Product(s) and/or Service(s) are stated in the Quotation.
- 4.2. <u>Affiliate Billing</u>. If Customer's order includes Products manufactured by more than one GE Healthcare affiliated company, each affiliated company may invoice Customer separately for the portion of the total price under the Quotation attributable to its Products, under the same payment terms specified in the Quotation. There shall be no additional fees or charges to Customer for such separate invoicing.
- 4.3. <u>Late Payment</u>. Failure to make timely payment is a material breach of this Agreement, for which (in addition to other available remedies) GE Healthcare may suspend performance under any or all GE Healthcare agreements until all past due amounts are brought current. If GE Healthcare so suspends, GE Healthcare will not be responsible for the completion of planned maintenance due to be performed during the suspension period and any product downtime will not be included in the calculation of any uptime commitment. Interest shall accrue on past-due amounts at a rate equal to the lesser of one-and-one-half percent (1.5%) per month or the maximum rate permitted by applicable law. Customer will reimburse GE Healthcare for reasonable costs (including attorneys' fees) relating to collection of past due amounts. Any credits that may be due to Customer under an agreement may be applied first to any outstanding balance. If Customer has a good faith dispute

March 26, 2014

regarding payment for a particular Product (or subsystem thereof) or Service, such dispute shall not entitle Customer to withhold payment 2:50 pm any other Product (or subsystem thereof) or Service provided by GE Healthcare. GE Healthcare may revoke credit extended to Customer because of Customer's failure to pay for any Products or Services when due, and in such event all subsequent shipments and Services shall be paid for on receipt.

4.4. <u>Taxes</u>. Prices do not include sales, use, gross receipts, excise, valued-added, services, or any similar transaction or consumption taxes ("Taxes"). Customer shall be responsible for the payment of any such Taxes to GE Healthcare unless it otherwise timely provides GE Healthcare with a valid exemption certificate or direct pay permit. In the event GE Healthcare is assessed Taxes, interest or penalty by any taxing authority, Customer shall reimburse GE Healthcare for any such Taxes, including any interest or penalty assessed thereon. Each party is responsible for any personal property or real estate taxes on property that the party owns or leases, for franchise and privilege taxes on its business, and for taxes based on its net income or gross receipts.

March 26, 2014 2:50pm



GE Healthcare Product Terms and Conditions

GE Healthcare

References herein to "Products" and "Services" mean the Products (including equipment and software) and Services identified on the applicable GE Healthcare Quotation ("Quotation"). References herein to "Healthcare IT Products" are (i) those software products identified in the Quotation as a "Centricity" product, any third party software licensed for use in connection with the Centricity software, all hardware used to operate the Centricity or the third party software, and services provided with respect to the implementation, installation or support and maintenance of the Centricity or the third party software, and/or (ii) any software, product or service that is included in a Quotation which Quotation is designated as an "Healthcare IT Quotation".

1. Commercial Logistics

1.1. Order Cancellation and Modification.

- 1.1.1. <u>Cancellation and Payments</u>. Except for Healthcare IT Products, if Customer cancels an order without GE Healthcare's prior written consent, Customer will pay a cancellation charge of fifteen percent (15%) of the price of the Products ordered. GE Healthcare will retain as a credit any payments received up to the amount of the cancellation charge. If Customer cancels an order for Products for which GE Healthcare has provided site evaluation services, Customer will also pay GE Healthcare reasonable charges for such services performed prior to cancellation. If applicable for the order, Customer will pay all progress payments (other than the final payment) prior to final Product calibration, and GE Healthcare may, at its option, delay final calibration until required progress payments are received. If Customer fails to schedule a delivery date with GE Healthcare within six (6) months after order entry, GE Healthcare may cancel Customer's order upon written notice to Customer.
- 1.1.2. <u>Order Modifications</u>. No modifications may be made to an order without GE Healthcare's prior written consent. The Product configuration listed in the Quotation is based upon information furnished to GE Healthcare by Customer, and Customer is responsible to provide and pay for modifications, if any, to the configuration due to inaccuracies or incompleteness of the information furnished to GE Healthcare by Customer, changes in Customer's needs or requirements, or for other reasons attributable to Customer.
- 1.2. Site Preparation. If applicable, Customer will be responsible, at its sole expense, for evaluating and preparing the site where the Products will be installed in accordance with GE Healthcare's site preparation requirements and applicable laws. Customer must provide GE Healthcare with prompt written notice if Customer is unable to prepare the site before the mutually agreed installation date. Upon receipt of such notice, GE Healthcare will reschedule the installation to a mutually agreed date. Customer shall be liable for any costs or expenses GE Healthcare or its representatives incur resulting from Customer's failure to provide GE Healthcare with timely notice of Customer's failure to properly prepare the site. GE Healthcare may, in its discretion, delay delivery or installation if GE Healthcare determines that the site has not been properly prepared or there are any other impediments to installation; provided that GE Healthcare gives Customer written notice of such delay stating the reasons therefor. If GE Healthcare provides site evaluation services, such services are intended only to assist Customer in fulfilling Customer's responsibility to ensure that the site complies with GE Healthcare's applicable site preparation requirements.

1.3. Transportation, Title and Risk of Loss; Delivery; Returns.

- 1.3.1. <u>Transportation, Title and Risk of Loss</u>. Unless otherwise indicated in the Quotation, shipping terms are FOB Destination. Title and risk of loss to equipment passes to Customer upon delivery to Customer's designated delivery location. Software is licensed to Customer; no title to or other ownership interest in such software passes to Customer.
- 1.3.2. <u>Delivery.</u> When feasible, GE Healthcare reserves the right to make delivery in installments. All such installments shall be separately invoiced and paid for when due, without regard to subsequent deliveries. At the time of such delivery, Customer will pay GE Healthcare for any amounts due upon delivery. Delivery dates are approximate. For GE Healthcare software or documentation, delivery means the first to occur of: (i) communication to Customer through electronic means, that allows Customer to take possession of the first copy or product master, or (ii) delivery to Customer's designated delivery location.
- 1.3.3. <u>Product Returns</u>. Customer shall not have any right to return Products for a refund after delivery except for products shipped in error that are different from the Products listed in the Quotation.
- 1.4. <u>Installation and Certification</u>. GE Healthcare will provide product assembly, installation and calibration, as required, at no additional charge, except for items excluded herein. GE Healthcare installation Services provided under the Quotation will be performed in accordance with applicable GE Healthcare installation guides and/or project plans. Customer will review the applicable GE Healthcare installation guides, and/or project plans, and perform Customer's obligations as set forth in those materials. Upon completion of assembly, installation and calibration, and prior to turnover of the Products to Customer for clinical use, as applicable, GE Healthcare will perform prescribed tests using its own performance specifications, instruments and procedures to verify that the Products meet GE Healthcare's applicable performance specifications.

1.4.1. Customer-Supplied Items.

- Customer will install necessary system cable and assemble any necessary equipment or hardware not provided by GE Healthcare, unless agreed otherwise in writing by the parties.
- For Products that will be operated on or in connection with Customer supplied hardware or software, Customer is responsible

March 26, 2014

for ensuring that such hardware and software conform to GE Healthcare's minimum hardware and software requirements 2:50 pm made available to Customer.

- Unless GE Healthcare has agreed in writing to maintain responsibility for an applicable service, Customer will be responsible for
 enabling the connectivity and interoperability between Customer-supplied hardware or software or other systems or devices
 and the Product, including, without limitation, procuring and installing any modifications, interfaces or upgrades consistent with
 GE Healthcare's written specifications.
- Unless otherwise agreed in writing by GE Healthcare, Customer is solely responsible for the performance of and payment for any
 applicable rigging and/or facility costs. GE Healthcare will not install accessory items unless otherwise agreed in writing by GE
 Healthcare.
- If applicable for the Product, electrical wiring and outlets, computer network infrastructure, conduit, cabinetry modification, wall mounts, ventilation and any other site preparation are not included in the purchase price and are the responsibility of Customer, unless otherwise agreed in writing by GE Healthcare.
- 1.4.2. <u>Network</u>. Unless Customer has elected to purchase network preparation and certification Services from GE Healthcare as set forth in the Quotation, Customer is solely responsible for ensuring that Customer's network is adequate for the proper operation and performance of the Products and otherwise meets GE Healthcare's written network configuration requirements.
- 1.4.3. <u>License</u>, <u>Permits</u>, <u>and Approvals</u>. Customer shall obtain and maintain all licenses, permits and other approvals necessary for installation, use, and disposal/recycling of the Products provided under this Agreement, including, but not limited to, any government licenses required to use radioactive sources for Products that require the use of such sources. GE Healthcare will ship such sources to Customer only after Customer provides GE Healthcare with satisfactory evidence that Customer has obtained all required licenses for such sources In addition, Customer will provide all radioactive sources for calibration and performance checks of Products that require the use of such sources. GE Healthcare will file any required Federal and State reports relating to its installation activities. GE Healthcare will not install, test, certify or provide its own software license or warranty for Products that are not listed in its on-line catalog or price pages at the time of sale (such Products are normally identified by NL or NW series numbers), unless otherwise agreed in writing by GE Healthcare.
- 1.4.4. Non-GE Healthcare Labor. If local labor conditions make it impractical to, or GE Healthcare is directed not to, use GE Healthcare's employees or pre-qualified contractors for the installation, all work will be performed by Customer's laborers or outside labor at Customer's expense; provided that GE Healthcare will, at Customer's request, furnish guidance for installation. GE Healthcare is not responsible for the quality or adequacy of any work performed by any party other than GE Healthcare or its pre-qualified contractors.
- 1.4.5. Non-GE Healthcare Installation. For Products that GE Healthcare is obligated to install under the terms of this Agreement, if GE Healthcare delivers the Product but fails to perform its installation obligations, then in such event Customer shall nevertheless be obligated to pay GE Healthcare an amount equal to (a) the Product purchase price set forth in the Quotation, if the Product purchase price and the installation Services price are shown as separate line items in the Quotation, or (b) if the Product purchase price and installation Services price are not shown as separate line items in the Quotation, then the Product purchase price less the fair market value of the applicable installation Services, taking into account the type of Product and level of installation required ("Installation Service FMV"). An independent third party shall determine the Installation Service FMV. Notwithstanding any other provision of this Agreement to the contrary, either the discharge of Customer's obligation to pay for installation Services shown as a separate line item(s) in the Quotation or the deduction of the Installation Service FMV, as applicable, shall be Customer's sole and exclusive remedy (and GE Healthcare's sole and exclusive liability) in the event GE Healthcare fails to perform its installation obligations under this Agreement.
- 1.5. <u>Acceptance</u>. Unless expressly provided otherwise in this Agreement, Customer shall be deemed to have accepted a Product delivered by GE Healthcare under this Agreement on the earlier of: (i) if GE Healthcare installs the Product, five (5) days after GE Healthcare notifies Customer that it has completed assembly and the Product is operating substantially in accordance with GE Healthcare's published performance specifications; (ii) if GE Healthcare does not install the Product, five (5) days after delivery of the Product to Customer; or (iii) the date Customer first uses the Product for patient use.
- 1.6. <u>Warranties</u>. Product warranties (if applicable) are set forth in the GE Healthcare warranty forms delivered with the Quotation. GE Healthcare may use refurbished parts in new Products as long as it uses the same quality control procedures and warranties as for new Products. Any part for which GE Healthcare has supplied a replacement shall become GE Healthcare property.
- 1.7. <u>Data Access</u>. If applicable, Customer shall permit GE Healthcare to connect to the Products, or to otherwise access Product performance data through a Customer-furnished telephone line or Broadband connection. The data collected by GE Healthcare will be used, during and after the term of this Agreement, in accordance with all applicable laws and regulations and in a manner that will maintain confidentiality.

2. Software License

2.1. <u>License Grant.</u> GE Healthcare grants to Customer a non-exclusive, non-transferable license to use for Customer's internal business purposes the GE Healthcare software, third-party software and Documentation at the location (or, for mobile systems, in the specific vehicle) identified in the Quotation, subject to the license scope and other restrictions set forth in this Agreement. "Documentation" means the GE Healthcare user manuals, on-line help functions, technical specifications and user instructions regarding the operation, installation and use of the software as made available by GE Healthcare to Customer. Customer may only use third-party software provided by GE Healthcare together with the GE Healthcare software and will comply with all third-party software license terms included in any click or shrink wrap license or of which GE Healthcare otherwise makes Customer aware. To the extent permitted by applicable law, licensors of third-party software shall be third-party beneficiaries of this Agreement with respect to third-party software sublicensed under this Agreement. Customer may permit its employees, agents, independent contractors and healthcare providers with privileges at Customer's facilities to use the software and Documentation; provided, however, that Customer shall be responsible for any acts of such third parties that are inconsistent

March 26, 2014

with this Agreement. Notwithstanding the foregoing, independent contractors that supply products comparable to the software shall 2e50pm provided access to the software only with GE Healthcare's prior written consent and subject to any conditions GE Healthcare deems appropriate to protect its confidential and proprietary information.

- 2.2. Additional License Terms. Without GE Healthcare's prior written consent, Customer may not: (i) copy, sublicense, distribute, rent, lease, loan, resell, modify or translate the software or create derivative works based thereon, except that to the extent applicable, the software may be configured as specifically permitted in the Documentation; (ii) directly or indirectly decompile, disassemble, reverse engineer or otherwise attempt to learn the source code, structure, algorithms or ideas underlying the software; (iii) provide service bureau, time share or subscription services based on the software; (iiv) remove, obscure or modify any markings, labels or any notice of the proprietary rights, including copyright, patent and trademark notices of GE Healthcare or its licensors; (v) electronically transfer the software outside Customer's intranet or network dedicated for the software, unless otherwise authorized in writing by GE Healthcare; or (vi) publicly release the results of any testing or benchmarking of the software without the prior written consent of GE Healthcare. Customer may transfer authorized copies of the software, and Documentation to a party that purchases or otherwise acquires the equipment and accepts any applicable license terms, except for software and Documentation that are (a) not a part of the base system standard operating software or Documentation for the equipment and (b) generally provided by GE Healthcare to its customers for a separate fee or charge. Advanced service software is subject to a separate fee and eligibility criteria and licensed under a separate agreement with GE Healthcare.
- 2.3. <u>Backups</u>. Customer may make a reasonable number of copies of the software in machine-readable form solely for backup, training, testing or archival purposes, so long as applicable license fees are paid. Customer shall reproduce on any such copy the copyright notice and any other proprietary legends that were on the original copy. GE Healthcare and its licensors, as applicable, retain all ownership and intellectual property rights to the software and Documentation. If Customer acquires any rights to the software or Documentation, Customer hereby assigns all of those rights to GE Healthcare or its licensors, as applicable. No license rights are granted (whether by implied license or otherwise), to Customer, except as specifically provided in this Section.
- 2.4. <u>Remedies</u>. Customer agrees that a violation of GE Healthcare's license, confidentiality or intellectual property rights will cause irreparable harm to GE Healthcare for which the award of money damages alone are inadequate. In the event of any breach of this provision, GE Healthcare shall be entitled to seek injunctive relief in addition to immediately terminating the license granted herein and requiring that Customer cease use of the software and return all copies of stand-alone software in any media in addition to seeking any other legal or equitable remedies available to GE Healthcare. This paragraph shall survive the termination of this Agreement.

Payment and Finance

- 3.1. <u>Security Interest; Upgrade Pricing.</u> Customer grants GE Healthcare a purchase money security interest in all items of hardware or equipment listed in the Quotation until full payment is received, and Customer shall perform all acts and execute all documents as may be necessary to perfect GE Healthcare's security interest. Except for Healthcare (T Products, prices for upgrades and revisions assume that Customer returns the replaced component and transfers title to GE Healthcare at no charge to GE Healthcare. If, after Product delivery, Customer does not make any payments for the Products within forty-five (45) days after such payments are due, GE Healthcare may, upon ten (10) days prior written notice to Customer, either (a) enter upon Customer's site and remove the Products or (b) temporarily disable the Products so that they are not operational.
- 3.2. <u>Leases</u>. If Customer is acquiring use of Products through an equipment lease (a "Lease") with an equipment lessor (a "Lessor"), certain provisions of this Agreement (including, but not limited to, terms related to payment, title transfer, warranties, and software licenses) may be modified as agreed to in writing between GE Healthcare, the applicable Lessor, and/or Customer, as the case may be. Acceptance of the equipment as between GE Healthcare and Lessor will be defined by this Agreement; acceptance of the equipment as between Lessor and Customer will be defined by the lease agreement. Notwithstanding the foregoing, if the Lessor does not comply with the terms of this Agreement, Customer shall continue to be responsible for the payment obligations hereunder.

4. Product Specific Terms

- 4.1. <u>MUSE CV Information Technology Professional Services (ITPS)</u>. MUSE CV Product ITPS shall be performed within six (6) months of the date Customer orders the Services. Without limiting the foregoing, Customer agrees that, if the Services have not been performed within one (1) year of the date Customer orders the Services for reasons other than GE Healthcare's failure to perform, GE Healthcare shall be relieved of its obligation to perform the Services and the Customer shall not be entitled to a refund for such unperformed Services. ITPS Services include clinical applications training, project management, HL7/HIS systems integration, database conversion, and network design and integration (ND&I).
- 4.2. <u>Pre-Owned Products</u>. Products identified as pre-owned/refurbished/remanufactured Products have been previously owned and used; they are not new. When delivered to Customer, such Products may have received mechanical, electrical, and/or cosmetic reconditioning, as necessary, and will meet their original specifications. Since pre-owned Products may be offered simultaneously to several customers, their sale to Customer is subject to their continued availability at the time Customer offers to purchase such Products. If the pre-owned Products are no longer available, (i) GE Healthcare will attempt to identify other pre-owned Products in its inventory that meet Customer's needs, and (ii) if substitute pre-owned Products are not acceptable to Customer, GE Healthcare will cancel the order and refund any deposit Customer has paid for such Products.
- 4.3. <u>CT and X-Ray Products</u>. Certain Products that use x-ray or image intensifier tubes have been designed to recognize GE Healthcare-supplied tubes and report to the user the presence of a non-GE Healthcare-supplied tube. This will permit the user to make any adjustments to Product use that the user deems appropriate. Use of the Products with non-GE Healthcare-supplied tubes is always at the user's discretion; however, Customer acknowledges that advanced scanner functionality may be impaired or disabled by the use of non-GE Healthcare-supplied tubes. GE Healthcare assumes no liability for the use of non-GE-Healthcare-supplied tubes and disclaims any responsibility for any effect such tubes may have on Product performance.

March 26, 2014 2:50pm



GE Healthcare

GE Healthcare Additional Terms and Conditions: Uptime Commitment

This Uptime Commitment incorporates GE Healthcare's General Terms and Conditions and GE Healthcare's Product Terms and Conditions and will apply to eligible diagnostic imaging systems covered by the Quotation, as identified in the Quotation ("Eligible Systems").

- 1. Scope. GE Healthcare will provide Customer with expanded warranty protection for Eligible Systems in consideration of Customer's commitment to provide a broadband network connection to enable GE Healthcare to better provide warranty service for the Eligible Systems during the warranty period. The following provisions will apply only to Eligible Systems and only during the warranty period.
- 2. Eligibility. To be eligible for this expanded warranty protection, Customer must: (a) establish (if not previously established) and maintain a broadband network connection at Customer's site that connects to the Eligible System, which broadband connection meets GE Healthcare's minimum specifications, (b) provide GE Healthcare with access to the Eligible System through Customer's broadband network connection and maintain security for Customer's broadband network connection in accordance with appropriate industry best practices, (c) provide necessary support to maintain such broadband network connection, including designation of a primary Customer contact person, (d) provide GE Healthcare with at least two (2) business days advance notice of any planned changes to Customer's network that may impact such broadband connection and with notice of any unplanned changes (e.g., power outages, computer viruses, system crashes) to Customer's network that may impact such broadband connection within two (2) business days after the occurrence of the unplanned changes, (e) reasonably cooperate with GE Healthcare in maintaining such broadband connection during all such planned and unplanned changes, and (f) use reasonable efforts to ensure that Customer's connection to the Internet and LAN systems operate at a maximum of 75% of capacity and have an uptime rate of at least 98%.
- 3. **Uptime Commitment**. If Customer performs these responsibilities, GE Healthcare will provide Customer, at no additional charge and in addition to other remedies available under GE Healthcare's warranty, an uptime commitment of 97% (95% for all covered nuclear imaging systems and all covered X-ray systems except digital mammography, digital radiographic and vascular X-ray systems), and uptime remedies, as described below.
- 4. Definitions. "Uptime Commitment" means GE Healthcare's commitment on Eligible System uptime during the warranty period, as defined below. "Uptime Remedy" is, in addition to the other remedies specified in the warranty, Customer's sole and exclusive remedy if GE Healthcare fails to meet any Uptime Commitment over a 26-week measurement period during the warranty period. Should the Eligible System fail to achieve the Uptime Commitment as calculated by the Uptime Commitment Calculation, GE Healthcare will provide an extension of Customer's service agreement with GE Healthcare for the Eligible System (or, if Customer has not entered into a service agreement with GE Healthcare, the warranty period for the Eligible System) at no additional charge, as follows:

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% < Uptime Commitment	<u>Extension</u>
0	0 weeks
0.1 - 3.0	1 week
3.1 - 8.0	2 weeks
8.1 - 13.0	4 weeks
> 13.0	6 weeks

"Uptime Commitment Calculation" means the calculation used to determine achievement of the Uptime Commitment, as follows: The basis for each measurement period is GE Healthcare's standard warranty service coverage hours of \underline{A} hours per day, \underline{B} days per week for 26 weeks, less \underline{C} hours spent on planned maintenance ("PM") during that interval:

Hours1 = A hours per day X B days per week X 26 weeks Hours2 = Hours1 - C hours for planned maintenance

Required in-service hours at Customer's % commitment: Hours3 = Hours2 X Customer's %

5. Eligible System. An Eligible System will be considered inoperable and out of service under the Uptime Commitment if, due to GE Healthcare's design, manufacturing, material, or service or maintenance performance failure, the Eligible System is unavailable for scanning patients and diagnosing images on the Eligible System display console or operator's console. Peripheral equipment such as remote consoles, magnetic tape drives, hard copy devices, and multi-format and laser cameras are excluded from the terms of the Uptime Commitment. Repair and adjustments required for anything other than Eligible System failure, and damage or inoperability due to any cause other than GE Healthcare's design, manufacturing, material, or service or maintenance performance failure, will be excluded from the Uptime Commitment Calculation, including without limitation damage through misuse, operator error, inadequate environmental or air conditioning protection, power failure, and acts of God. PM time will not be included in the calculation of downtime. If GE Healthcare's responding representative agrees the Eligible System is inoperable due to GE Healthcare's design, manufacturing, material, or service or maintenance performance failure, the Eligible System will be considered out of service from the time the request for service was received by GE Healthcare until the Eligible System is again turned over to Customer for operation. If Customer fails to give GE Healthcare immediate and unencumbered access to the Eligible System or continues to obtain scans after notifying GE Healthcare of any Eligible System failure, the Eligible System will be considered to be in service.

March 26, 2014 2:50pm



GE Healthcare Additional Terms and Conditions: Healthcare IT

GE Healthcare

References herein to "Products" and "Services" mean the Products (including hardware and software) and Services purchased by Customer as identified on the applicable GE Healthcare Quotation ("Quotation"). References herein to "Healthcare IT Products" are (i) those software products identified in the Quotation as a "Centricity" product, any third party software licensed for use in connection with the Centricity software, all hardware used to operate the Centricity or the third party software, and services provided with respect to the implementation, installation or support and maintenance of the Centricity or the third party software, and/or (ii) any software, product or service that is included in a Quotation which Quotation is designated as an "Healthcare IT Quotation".

These Additional Terms and Conditions incorporate the GE Healthcare General Terms and Conditions as well as the GE Healthcare Product Terms and Conditions and will apply only to the license, purchase and use of Healthcare IT Products.

- 1. Healthcare IT Product Specific Terms. The following terms apply only to the purchase of Healthcare IT Products.
- 1.1. Statement of Work (SOW). Following the effective date of this Agreement, the parties may enter into a written statement of work ("SOW") signed by the parties that describe the professional services to be provided by pursuant to the quotation, which may include, among other things, an installation and implementation project work plan, identification of installation and implementation services, and other related professional services. GE Healthcare shall perform the professional services and provide any deliverables described in any such SOW and shall use commercially reasonable efforts to do so according to any delivery schedule in the SOW. GE Healthcare is responsible for the assignment of personnel to perform all services and may make any change in staffing it deems necessary provided that such change does not compromise the level of expertise required to complete the applicable SOW. Each SOW may include descriptions of the following: (i) professional services to be performed; (ii) deliverables; (iii) Customer's additional responsibilities; (iv) project work scope, (v) estimated performance schedule and applicable milestones; (vii) Customer's site and any site preparation requirements; (viii) network, hardware or other environmental or infrastructure requirements; (viiii) preliminary implementation plans; or (ix) key assumptions. The terms and conditions of this Agreement shall prevail over those of the SOW. A SOW may only be modified in writing signed by authorized representatives of both parties and must be made pursuant to mutually agreed change control procedures. Changes to a SOW may require a change in fees reflecting the change in scope and/or change in schedule of delivery of the professional services or deliverables and/or change in Customer's responsibilities. From time to time during the term of this Agreement, the parties may enter into additional SOWs relating to services purchased by Customer under Change Orders to this Agreement. Each such additional SOW shall constitute a separate and inde
- 1.2. Project Managers. If required by the SOW, Customer and GE Healthcare shall each designate a project manager who will be responsible for day-to-day communications regarding the subject matter of the applicable SOW. The project managers will be responsible for monitoring the schedules and progress of services pursuant to the Agreement and/or SOW and will have the authority to act for the respective parties in all aspects of the engagement. The project managers for the parties will meet in person or via conference call as necessary. The responsibilities of the project managers include to: (i) serve as the single point of contact for all departments in their organization participating in this project; (ii) administer the change-of-control procedure; (iii) participate in project status meetings; (iv) obtain and provide information, data, decisions and approvals, within seven working days of the other party's request unless GE Healthcare and Customer mutually agree to an extended response time; (v) resolve deviations from project plans that may be caused by the parties' respective organizations; (vi) help resolve project issues and escalate issues within the parties' respective organizations, as necessary; (vii) monitor and report project status on a regular basis to the respective organizations as appropriate; and (viii) provide and coordinate technical and specialist resources as necessary.
- 1.3. HITECH Certification. GE Healthcare will use diligent efforts to obtain certification under the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act") to the extent that certification standards are established for the applicable functionality included as part of GE Healthcare's EMR or Centricity Practice Solutions software licensed by Customer, including those product updates that GE Healthcare provides generally to Customer of such products as part of support and maintenance. If GE Healthcare fails to obtain certification for the applicable components within ninety (90) days after the beginning of the first Reporting Period in a Payment Year that Customer is actively seeking to demonstrate Meaningful Use, GE Healthcare will credit the standard support services fees for such software for each month during which the software is not certified (up to a maximum of 6 months) against future support fees. The foregoing is Customer's sole and exclusive remedy in the event GE Healthcare fails to obtain certification. For the avoidance of doubt, Customer's payment obligations under this Agreement are not conditioned on receipt of HITECH incentive payments, certification of the software or demonstration of meaningful use. GE Healthcare will keep Customer informed of GE Healthcare's certification status by posting such status at www.gehealthcare.com/hitech (or some other location that of which GE Healthcare may inform Customer). It is Customer's responsibility to ensure Customer meets all the requirements to qualify for the incentive payments, including "meaningful use", and to confirm that the GE Healthcare software Customer is using is certified according to HITECH criteria. GE Healthcare's obligations under this section apply only to the then-most current version of GE Healthcare's Centricity EMR or Centricity Practice Solution software products. GE Healthcare's obligations are contingent upon Customer thenreceiving and paying for support services and complying with the requirements of the GE Healthcare service policy and, if GE Healthcare so requires, upon Customer installing software fixes, patches or updates or migrating to a new or different GE Healthcare software offering, and on Customer otherwise having installed all functionality not part of the GE Healthcare software that would have been required to show Meaningful Use. All capitalized terms shall the definitions set forth in this Agreement, the HITECH Act or any applicable implementing regulations.
- 1.4. Ownership Rights. GE Healthcare shall retain ownership of all deliverables (including any intellectual property embodied in the

March 26, 2014

deliverables or related to them) and any intellectual property developed under a SOW or during the course of performing the services whet or not the services are performed by GE Healthcare alone or jointly with Customer or others. In addition, GE Healthcare shall own all improvements, enhancements and derivative works of any GE Healthcare intellectual property. Customer hereby assigns, and will cause Customer's employees and independent contractors to assign, to GE Healthcare all of Customer's rights in and to such deliverables and intellectual property. GE Healthcare grants to Customer a nonexclusive, nontransferable, license, without the right to sublicense, to use the deliverables solely for Customer's internal business purposes and subject to the limitations described in this Agreement and the relevant SOW. Customer agrees to provide reasonable assistance to GE Healthcare in obtaining and enforcing GE Healthcare's rights to such deliverables and intellectual property. GE Healthcare will acquire no rights to any of Customer's confidential information that may be included in any deliverable unless expressly agreed to otherwise by Customer.

- 1.5. <u>Software Product Testing and Acceptance</u>. Commencing on the date that GE Healthcare gives notice of installation of the GE Healthcare software (or on the date as otherwise provided for in the applicable SOW) and implementation by GE Healthcare of appropriate option and parameter selections made by Customer, Customer will have thirty (30) days to test each unit or module of the GE Healthcare software. Customer shall be deemed to have accepted GE Healthcare proprietary software the earlier of (i) Customer's written acceptance, (ii) the expiration of the test period identified in the preceding sentence without GE Healthcare receiving written notice from Customer of the existence of any errors and a reasonable description of such error(s), or (iii) the date Customer first uses the software to process actual data in the operation of Customer's business (e.g. to register a patient, to produce a bill, to record a treatment or diagnosis or to process or view a medical image). As used in this section, an "error' is the failure of the software to perform substantially in accordance with the documentation. Acceptance tests will be conducted using test data, preferably from Customer's historical operations, in a non-productive environment and according to test protocol to be mutually agreed upon by the parties. Upon discovering an error, Customer shall promptly notify GE Healthcare in writing of the error, which notice shall include a reasonable description of the error. Upon GE Healthcare's timely receipt of Customer's written notice, GE Healthcare shall promptly correct such failures identified by Customer therein. An acceptance test for amendments or olterations provided by GE Healthcare as a result of testing may be conducted by Customer for a period of not more than five (5) days after delivery of such amendment or alteration, and the test period shall be extended for this purpose. Upon the occurrence of acceptance, all payments associated with acceptance, if any, shall be due and payable.
- 1.6 <u>Software Support.</u> GE Healthcare will provide to Customer the software support services as described in the applicable GE Healthcare service policy for the GE Healthcare software and the support period as specified in the applicable quotation for which Customer has paid the applicable fees. Software that is identified on the quotation and either (i) is delivered to Customer in a third-party developer/supplier's packaging and with its labeling or (ii) for which GE Healthcare expressly indicates (either in the quotation or in the product documentation) that the software is provided with the third-party developer/supplier's software support services in lieu of GE Healthcare software support services is not covered under this Agreement unless specifically stated otherwise in the applicable quotation. GE Healthcare support services will automatically renew for another annual term upon payment of the applicable renewal support fees, unless either party provides sixty (60) days prior written notice of non-renewal. GE Healthcare may increase its charges for support and maintenance fees for each successive annual software renewal support term. In connection with any annual renewal of support services, GE Healthcare may increase its annual charges for maintenance and support by no more than CPI plus two percent (2%). CPI shall mean the U.S. City Average (December to December percent) for ALL Urban Consumers (CPI-U). If GE Healthcare announces to its customers that it will no longer offer support ("end of product life") for a product or component, then upon at least twelve (12) months' prior written notice to Customer, GE Healthcare may, at its option, remove any such item from all GE Healthcare service agreements, with an appropriate adjustment of charges, without otherwise affecting such agreements.
- Medical Diagnosis and Treatment. Customer acknowledges that: (a) the software does not make clinical, or other decisions and is not a substitute for competent, properly trained and knowledgeable staff who bring professional judgment and analysis to the information presented by the software; (b) Customer is responsible for verifying the accuracy of all patient information and determining the data necessary for Customer and Customer's users to make medical and diagnostic decisions, as well as for complying with all laws, regulations and licensing requirements applicable to Customer's delivery of healthcare services; (c) Customer is responsible for establishing and maintaining reasonable quality control procedures to ensure the accuracy of input to the software; (d) Customer and Customer's staff will consider all relevant information including information presented to Customer and Customer's staff by the software and may give whatever weight Customer and Customer's staff deem appropriate to the information produced by the software in the performance of Customer's and Customer's staff's functions; (e) any and all financial and management information produced by the software must be tested for reasonableness and accuracy before any actions are taken or reliance placed on it; (f) Customer has reviewed and will communicate to users who use and access the software any software information, which may be provided to Customer by GE Healthcare from time to time; (g) although GE Healthcare and its third-party vendors have used reasonable care in obtaining information from sources believed to be reliable, Customer acknowledges that it is Customer's obligation to be informed about any changes or developments in clinical information or guidelines that may not be reflected in the software and that the absence of an alert or warning for a given course of treatment, drug or drug combination should not be construed to indicate that the treatment, drug or drug combination is safe, appropriate or effective in any given patient; (h) Customer is solely responsible for the proper, complete and accurate submission of claims, including without limitation the determination of proper billing, diagnosis and procedure codes and the maintenance of patient medical records containing appropriate documentation of the Services billed; (i) when selecting a narrative condition or coded diagnosis or procedure, Customer must make an independent and informed judgment based upon the patient's condition and symptoms and/or a physician's submitted diagnosis, to select a code appropriate for that patient (GE Healthcare does not make any representation or warranty regarding the appropriateness of any of the narrative or codes displayed for any or all patients); (j) since it is possible that a payor's local medical review policies may be in effect prior to their receipt or update by GE Healthcare or its licensors, Customer, as a provider under Federal health care programs, assumes responsibility for the accuracy of all claims submitted for Services performed for Medicare beneficiaries. Customer shall use the Products only for clinical diagnostic purposes in the diagnosis or treatment of a disease or condition, and not for any entertainment or amusement purposes. GE Healthcare will not deliver, install, service or provide training on use of the Products if GE Healthcare discovers the Products have been or are intended to be used for non-clinical purposes

March 26, 2014 2:50pm

in violation of the preceding sentence.

- 1.8 <u>Return of Software</u>. Upon termination of this Agreement for any reason, Customer shall immediately return to GE Healthcare any and all software for which license grant immediately terminates.
- 2. Healthcare IT Warranty. The following warranties apply only to Healthcare IT products and are in lieu of any other standard GE Healthcare warranties.
- 2.1. Express Warranties. GE Healthcare makes the following express warranties to Customer:
 - 2.1.1. GE Healthcare warrants that its services will be performed by trained individuals in a professional, workman-like manner.
 - 2.1.2. Except as indicated otherwise below, GE Healthcare warrants that (i) GE Healthcare has the right to license or sublicense the software to Customer for the purposes and subject to the terms and conditions set forth herein, (ii) for 90 days following the warranty commencement date, the software will perform substantially in accordance with the applicable documentation, (iii) it has not inserted any disabling code (as defined herein) into the software, and (iv) it will use reasonable commercial efforts consistent with industry standards to scan for and remove any software viruses before installation of the software. As used herein, (a) "disabling code" means computer code that is designed to delete, interfere with, or disable the normal operation of the software; provided, however, that code included in the software that prohibits use outside of the license scope purchased for the software will not be deemed to be disabling code, and (b) "warranty commencement date" means the date upon which Customer first uses the software to process actual data in the operation of Customer's business (e.g., to register a patient, to produce a bill, to record a treatment or diagnosis or to process or view a medical image). The warranty period for any software or component furnished to correct a warranty failure will be the unexpired term of the warranty applicable to the repaired or replaced software.
 - 2.1.3. Except for the right to license warranty above, the above warranties do not cover equipment or third-party software delivered with the GE Healthcare software. Third-party software is identified with a separate part number on the quotation (i) delivered to Customer in the third-party manufacturer/supplier's packaging and with its labeling, or (ii) for which GE Healthcare expressly indicates (either in the quotation or in the product documentation) that the software or equipment is provided with the third-party manufacturer/supplier's warranty in lieu of a GE Healthcare warranty. Such products are covered by the third-party manufacturer/supplier's warranties, to the extent available.
- 2.2. <u>No Other Warranties</u>. NO OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, SYSTEM INTEGRATION AND DATA ACCURACY, WILL APPLY.
- 2.3. Sole and Exclusive Remedies for Breach of Warranties. The remedies set forth below are Customer's sole and exclusive remedies and GE Healthcare's sole and exclusive liability for warranty claims. These exclusive remedies shall not have failed of their essential purpose (as that term is used in the Uniform Commercial Code) as long as GE Healthcare remains willing to repair or replace defective warranted products or re-perform any non-conforming services for no charge, as applicable, within a commercially reasonable time after being notified of Customer's warranty claim.
 - 2.3.1. If there is any breach of a warranty contained in Section 2.1.1, GE Healthcare will promptly re-perform any non-conforming services for no charge as long as Customer provides reasonably prompt written notice to GE Healthcare.
 - 2.3.2. If there is a breach of warranty contained in Section 2.1.2(i) GE Healthcare will indemnify Customer in accordance with Section 3.3 of the General Terms and Conditions to included as part of this Agreement.
 - 2.3.3. If there is any breach of a warranty contained in Section 2.1.2(ii) (iv) and Customer promptly notifies GE Healthcare of Customer's warranty claim during the warranty period and makes the software available for service, GE Healthcare will, at its option, with respect to the GE Healthcare software, either correct the non-conformity or replace the applicable software. Unless agreed otherwise, warranty service will be performed without charge from 8:00 a.m. to 5:00 p.m. (local site time), Monday-Friday, excluding GE Healthcare holidays, and outside those hours at GE Healthcare's then prevailing service rates and subject to the availability of personnel. For certain licensed software, GE Healthcare will perform warranty service only at an authorized service center or, in some instances, via a secure, remote connection to a GE Healthcare online center.
- 2.4. <u>Limitations</u>. GE Healthcare shall not have any obligation to Customer hereunder if the warranty claim results from or arises out of: (i) the use of the software in combination with any software, tools, hardware, equipment, supplies, accessories or any other materials or services not furnished by GE Healthcare or recommended in writing by GE Healthcare; (ii) the use of the software in a manner or environment, or for any purpose, for which GE Healthcare did not design or license it, or in violation of GE Healthcare's written recommendations or instructions on use; (iii) any alteration, modification or enhancement of the software by Customer or any third party not authorized or approved in writing by GE Healthcare (iv) inadequate back-up or virus protection or any other cause external to the software or beyond GE Healthcare's reasonable control. In addition, the warranties set forth above do not cover the software to the extent it is used in any country other than the country to which GE Healthcare ships the licensed software (unless GE Healthcare expressly agrees otherwise in writing). GE Healthcare does not quarantee that the software will operate without error or interruption.

March 26, 2014 2:50pm



Warranty Statement (United States)

GE Healthcare

- Warranted Products. These warranties cover the purchase and use of the following GE Healthcare products:
- Magnetic Resonance
- Computed Tomography
- Mammography
- Positron Emission Tomography (including scanners, cyclotrons & chemistry labs)
- Nuclear
- X-ray

- Surgical Navigation Systems
- Cardiology
- Ultrasound
- Bone Mineral Densitometry
- Physiological Monitoring
- Small Animal Imaging
- C-Arms
- Advantage Workstation and Server
- Anesthesia Delivery
- Respiratory Care
- Gold Seal
- Phototherapy and other infant care accessories
- Microenvironments, including Giraffe®, Care Plus®, Ohio® Infant Warmer Systems and Panda™ Baby Warmers

2. GE Healthcare Warranties.

- 2.1 Scope. This warranty statement incorporates GE Healthcare's General Terms and Conditions and GE Healthcare's Product Terms and Conditions. GE Healthcare warrants that its services will be performed by trained individuals in a professional, workman-like manner. GE Healthcare will promptly re-perform any non-conforming services for no charge as long as Customer provides reasonably prompt written notice to GE Healthcare. The foregoing service remedy, together with any remedy provided herein, are Customer's sole and exclusive remedies (and GE Healthcare's sole and exclusive liability) for warranty claims. These exclusive remedies shall not have failed of their essential purpose (as that term is used in the Uniform Commercial Code) as long as GE Healthcare remains willing to repair or replace defective warranted products or re-perform any non-conforming services for no charge, as applicable, within a commercially reasonable time after being notified of Customer's warranty claim. NO OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, SYSTEM INTEGRATION AND DATA ACCURACY, WILL APPLY.
- 2.2 <u>Term Usage</u>. "Warranted Product" is a collective term which includes both the above-listed manufactured equipment and licensed software, with the exception of Healthcare IT Products, purchased by and/or licensed to (as applicable) Customer under the relevant GE Healthcare Quotation. Where an item of equipment has software code embedded in it, the code will only be considered licensed software under this warranty statement if the applicable GE Healthcare Quotation provides a separate part number for that software.
- 2.3 <u>Equipment Warranty</u>. Except as indicated otherwise below, GE Healthcare warrants the equipment will be free from defects in title and that for 1 year from the Warranty Commencement Date (as defined below) (i) the equipment will be free from defects in material and workmanship under normal use and service and (ii) except for equipment manufactured in compliance with Customer's designs or specifications, the equipment will perform substantially in accordance with GE Healthcare's written technical specifications for the equipment (as such specifications exist on the date the equipment is shipped) (the "Specifications"). This warranty covers both parts and labor and is available only to end-users that purchase the equipment from GE Healthcare or its authorized distributors. Customers purchasing through an authorized distributor must contact GE Healthcare promptly following such purchase to enable this warranty.
- 2.4 <u>Software Warranty</u>. Except as indicated otherwise below, GE Healthcare warrants for 90 days from the Warranty Commencement Date that (i) the licensed software will perform substantially in accordance with the applicable Documentation (as defined herein), (ii) it has not inserted any Disabling Code (as defined herein) into the licensed software and (iii) it will use reasonable commercial efforts consistent with industry standards to scan for and remove any software viruses before installation of the applicable Warranted Product. Except as indicated otherwise below, GE Healthcare warrants that it has the right to license or sublicense the licensed software to Customer for the purposes and subject to the terms and conditions set forth in GE Healthcare's General Terms and Conditions. As used in this warranty statement, (i) "Disabling Code" means computer code that is designed to delete, interfere with, or disable the normal operation of the Warranted Product; provided, however, that code included in the licensed software that prevents use outside of the license scope purchased for the software will not be deemed to be Disabling Code and (ii) "Documentation" means the GE Healthcare user manuals, online help functions, technical specifications and user instructions regarding the operation, installation and use of the software as made available by GE Healthcare to Customer.
- 2.5 <u>Pre-owned Equipment</u>. GE Healthcare's Gold Seal Preferred Products (certain pre-owned GE Healthcare equipment) and GE Healthcare's certified pre-owned Bone Mineral Densitometry Products are provided with GE Healthcare's standard warranties carrying the same duration as the new equipment warranty, but in no event exceeding 1 year (unless otherwise provided in writing by GE Healthcare). Except as expressly provided in this paragraph or in the applicable GE Healthcare Quotation, used and/or pre-owned equipment is not warranted by GE Healthcare.
- 2.6 <u>Healthcare IT and X-Ray Tubes</u>. GE Healthcare X-ray and Image Intensifier Tubes, Maxiray X-ray Tubes and GE Healthcare IT Products are covered by a separate warranty statement provided in an applicable GE Healthcare Quotation.

March 26, 2014

- 2.7 Third-Party Software and Equipment. This warranty statement does not cover Third-Party Software and Equipment (as defined her 2:150 pm delivered with the Warranted Products (commonly identified by NL or NW series numbers in GE Healthcare's Quotation). "Third-Party Software and Equipment" means any non-GE Healthcare software or equipment (i) delivered to Customer in the third-party manufacturer/supplier's packaging and with its labeling or (ii) for which GE Healthcare expressly indicates (either in the GE Healthcare Quotation or in the product documentation) that the software or equipment is provided with the third-party manufacturer/supplier's warranty in lieu of a GE Healthcare warranty. Such products are covered by the third-party manufacturer/supplier's warranties, to the extent available. Anesthesia monitor mounting solutions Third-Party Software and Equipment purchased directly from GE Healthcare will not be treated as Third-Party Software or Equipment.
- 3. Warranty Commencement. Unless expressly provided otherwise in this warranty statement or the applicable GE Healthcare Quotation, the warranty period begins (the "Warranty Commencement Date") on the earlier of: (i) if GE Healthcare installs the Warranted Product, 5 days after GE Healthcare notifies Customer that it has completed assembly and the Warranted Product is operating substantially in accordance with GE Healthcare's Specifications; (ii) if GE Healthcare does not install the Warranted Product, 5 days after delivery of the Warranted Product to Customer; (iii) the date Customer first uses the Warranted Product for patient use; or (iv) if GE Healthcare is contractually required to install the Warranted Product, the 30th day following shipment to the end-user Customer if installation is delayed for reasons beyond GE Healthcare's reasonable control. The warranty period for any Warranted Product or component furnished to correct a warranty failure will be the unexpired term of the warranty applicable to the repaired or replaced Warranted Product. The warranty period for Vital Signs, Inc. Products begins on the date such products are shipped to Customer.
- 4. Remedies. If Customer promptly notifies GE Healthcare of Customer's warranty claim during the warranty period and makes the Warranted Product available for service, GE Healthcare will, at its option (i) with respect to equipment, either repair, adjust or replace (with new or exchange replacement parts) the non-conforming Warranted Product or components of the Warranted Product and (ii) with respect to GE Healthcare's licensed software, either correct the non-conformity or replace the applicable licensed software. Warranty service will be performed without charge from 8:00 a.m. to 5:00 p.m. (local site time), Monday-Friday, excluding GE Healthcare holidays, and outside those hours at GE Healthcare's then prevailing service rates and subject to the availability of personnel. For certain Warranted Products, GE Healthcare will perform warranty service only at an authorized service center or, in some instances, via a secure, remote connection to a GE Healthcare online center. With respect to GE Healthcare's warranty for the services it provides to Customer, Customer's exclusive remedy is set forth in Section 2.1 above.

Warranty claims for the Warranted Products should be directed through GE CARES at 1-800-437-1171. Warranty claims for accessories and supplies items should be directed through 1-800-558-5102.

5. Limitations. GE Healthcare shall not have any obligation to Customer hereunder if the warranty claim results from or arises out of: (i) the use of the Warranted Product in combination with any software, tools, hardware, equipment, supplies, accessories or any other materials or services not furnished by GE Healthcare or recommended in writing by GE Healthcare; (ii) the use of the Warranted Product in a manner or environment, or for any purpose, for which GE Healthcare did not design or license it, or in violation of GE Healthcare's recommendations or instructions on use; or (iii) any alteration, modification or enhancement of the Warranted Product by Customer or any third party not authorized or approved in writing by GE Healthcare. In addition, this warranty does not cover the Warranted Product to the extent it is used in any country other than the country to which GE Healthcare ships the Warranted Product (unless GE Healthcare expressly agrees otherwise in writing). GE Healthcare does not guarantee that licensed software will operate without error or interruption.

In addition, these warranties do not cover: (i) any defect or deficiency (including failure to conform to Specifications and/or Documentation, as applicable) that results, in whole or in part, from any improper storage or handling, failure to maintain the Warranted Products in the manner described in any applicable instructions or specifications, inadequate back-up or virus protection or any cause external to the Warranted Products or beyond GE Healthcare's reasonable control, including, but not limited to, power failure and failure to keep Customer's site clean and free of dust, sand and other particles or debris; (ii) the payment or reimbursement of any facility costs arising from repair or replacement of the Warranted Products or parts; (iii) any adjustment, such as alignment, calibration, or other normal preventative maintenance required of Customer; (iv) expendable supply items; (v) stockpiling of replacement parts; (vi) any failure of the Warranted Products to use or correctly process dates; and (vii) products not listed in GE Healthcare's Accessories and/or Supplies catalogs at the time of sale, and all service manuals are provided AS IS. For network and antenna installations not provided by GE Healthcare or its authorized agent(s), network and antenna system troubleshooting will be billable at GE Healthcare's standard service rates.

For MR systems, these warranties do not cover (i) any defect or deficiency that results, in whole or in part, from failure of any water chiller system supplied by Customer, (ii) service to any water chiller systems supplied by Customer and (iii) for MR systems with LHe/LN or shield cooler configured superconducting magnets (except for MR Systems with LCC magnets), any cryogen supply, cryogenic service or service to the magnet, cryostat, coldhead, shield cooler compressor or superconductive or resistive shim coils unless the need for such supply or service is caused by a defect in material or workmanship covered by these warranties (GE Healthcare's MR Magnet Maintenance and Cryogen Service Agreement is available to provide supplemental coverage during the warranty period). For Proteus XR/a, Definium and Precision 500D x-ray systems, these warranties do not cover collimator bulbs.

6. Exceptions to GE Healthcare Standard Warranties Described Above.

CT Partial System Equipment Upgrades*: Six (6) months MR Partial System Equipment Upgrades*: Six (6) months

X-ray Partial System Equipment Upgrades*; High Voltage Rectifiers and TV Camera Pick-Up Tubes: Six (6) months

PET Partial System Equipment Upgrades* (Scanners, Cyclotrons and Chemistry Labs): Six (6) months

Nuclear Partial System Equipment Upgrades*: Six (6) months

GE OEC New or Exchange Service/Maintenance Parts: Ninety (90) days HealthNet Lan, Advantage Review — Remote Products: Ninety (90) days

March 26, 2014

GE Ultrasound Exchange Probes and Transducers, Ultrasound Water Path attachment Kit: Ninety (90) days

2:50pm

GE Ultrasound Service Replacement Parts: Thirty (30) days

LOGIQBook and Other Handheld/Compact Ultrasound Products: Standard warranty includes (i) repair services at GE Healthcare service facilities, (ii) three (3) business day turnaround repair time for systems shipped via overnight delivery (where available), measured from the date of shipment (GE Healthcare is not responsible for delays in overnight shipment), (iii) seventy-two (72) hour loaner systems or probe replacement service via Fed Ex (shipping charges included), (iv) technical support via telephone from 7:00 am to 7:00 pm Central Time, Monday-Friday, excluding GE Healthcare holidays, (iv) field support/service is available for an additional charge and (v) preventative maintenance for an additional charge. For an additional charge, GE Healthcare will also provide the following enhanced warranty features as part of the system warranty: coverage for system damage due to accidental dropping or mishandling, with a maximum of two (2) replacement systems during the term of the warranty.

Ultrasound Partial System Equipment Upgrades*: Ninety (90) days (Customer will not be credited the value of this warranty against pre-existing warranties or service agreements).

Dash, Solar 8000M, 8000i & Tram: Additional two (2) years of parts only coverage, excluding displays (United States only)

DINAMAP ProCare Vital Signs Monitors: Two (2) years DINAMAP Pro 100-400V2 Series Monitors: Three (3) years Enterprise Access: One (1) year parts, ninety (90) days labor

MAC 1600: Three (3) years

MAC 1200: Three (3) years (United States only)

Batteries: Ninety (90) days, except (i) for LOGIQBook batteries, which are warranted for twelve (12) months and (ii) for Nickel cadmium or lead acid batteries for X-ray and mammography systems (which will carry a sixty (60)-month warranty prorated as shown below). For Nickel cadmium or lead acid batteries for X-ray and mammography systems, warranty service will be performed without charge from 8:00 a.m. to 5:00 p.m. (local site time), Monday-Friday, excluding GE Healthcare holidays, and outside those hours at GE Healthcare's then prevailing service rates and subject to the availability of personnel only during the first twelve (12) months of the sixty (60)-month warranty period. For X-ray and mammography systems, if nickel cadmium or lead acid batteries need replacement during their applicable warranty period, Customer will pay the price of the replacement battery in effect on its delivery date less a Pro Rata Credit Allowance (as defined herein). The Pro Rata Credit Allowance for batteries that fail less than twelve (12) months after the warranty begins is one hundred percent (100%). The Pro Rata Credit Allowance for batteries that fail more than twelve (12) months after the warranty begins is:

1 - (# of Mos. After Warranty Commencement /60) x 100%

For the purpose of Pro Rata Credit Allowance, a fraction of a month less than fifteen (15) days will be disregarded, and a fraction of a month equal to or greater than fifteen (15) days will be regarded as a full month.

Care Plus® Incubator: Three (3) years parts, one (1) year labor

Ohio® Infant Warmer Systems and Panda™ Warmers: Lifetime parts warranty on heater cal rod

BiliBlanket® Plus High Output Phototherapy System: Two (2) years on Light Box and eighteen (18) months on Fiberoptic Pad

Microenvironment and Phototherapy expendable components, this includes but is not limited to patient probes, probe covers and light bulbs: Thirty (30) days

GE OEC refurbished c-arms: Twelve (12) months after installation

Oximeters: Three (3) years from installation, or thirty-nine (39) months from GE Healthcare invoice, whichever occurs sooner

Tec 7 Vaporizers: Three (3) years **Tec 6 Plus Vaporizers**: Two (2) years

X-ray and Image Intensifier Tubes and Maxiray X-ray Tubes: See GE Healthcare Warranty Statement X-Ray an Image Intensifier Tubes

Accessories and Supplies: GE Healthcare's catalog and/or website includes a "Service/Warranty Code" which identifies the installation, warranty, applications and post-warranty service, if any, provided for each accessory and supply product. Following are the warranty periods for accessories and supplies:

Service/Warranty Code T	100 Years
Service/Warranty Code V	25 Years
Service/Warranty Code V	15 Years
Service/Warranty Codes F	3 Years
Service/Warranty Codes D. J. N. O. R or Z	
Service/Warranty Codes A, B, C, E, G, L, P, Q, S or Y	1 Year
Service/Warranty Code H	
Service/Warranty Code K and all Vital Signs, Inc. products	
Service/Warranty Code MService/Warranty Code W	Out of Box Failure Only
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^{*} NOTE: For partial system equipment upgrades, the warranty applies only to the upgraded components

March 26, 2014 2:50pm



GE Healthcare

Warranty Codes For Accessories And Supplies

Service / Warranty Codes. If Customer promptly notifies GE Healthcare of its warranty claim and makes the Product available for service, GE Healthcare will provide the warranty service indicated in the applicable Service/Warranty Code description. The terms and conditions of GE Healthcare's Warranty Statement(s) apply to all warranty claims. Basic Service Premise for Products – GE Healthcare Field Engineers will take the first call for service and either provide direct support or arrange for support from the manufacturer or its dealers as indicated by the individual Service/Warranty Code. If the Service/Warranty Code calls for Product return for repair or in-warranty exchange, Customer must return the Product as GE Healthcare directs. GE Healthcare provides warranty service from 8:00 AM to 5:00 PM local time Monday-Friday EXCLUDING GE HEALTHCARE HOLIDAYS. If a Service/Warranty Code provides for warranty service to be performed on Customer's site, such service is available outside the above hours at GE Healthcare's prevailing service rates and subject to the availability of personnel.

A GE Healthcare directly, or through a sub-contractor, provides the following:

Installation; parts; on-site warranty service to repair, adjust or replace (at GE Healthcare's option and using new or exchange replacement parts) non-conforming products or parts; applications training in some cases (with additional charge); and post-warranty service, at prevailing hourly billed service ("HBS") rates and, in some cases, under GE Healthcare service contracts.

B GE Healthcare directly provides the following through GE Healthcare's Global Parts Operation (GPO):

New or exchange replacement parts at no charge to correct non-conforming products or parts during the warranty period; new or exchange replacement parts at GE Healthcare's normal prices for post-warranty repairs. **Note:** Installation, applications training and onsite service is the Customer's responsibility. However, GE Healthcare's Field Engineers may be available at prevailing HBS rates. Contact GE CARES for availability.

C GE Healthcare arranges for the third-party Product Manufacturer or its dealers to provide the following:

Installation (in some cases with an additional charge); parts; on-site warranty service to repair, adjust, or replace (at the manufacturer's or dealer's option and using new or exchange replacement parts) non-conforming products or parts; applications training in some cases (some with additional charge); and post-warranty service at prevailing service rates.

D GE Healthcare refers to the Product Manufacturer warranty, which provides the following:

Basic functional troubleshooting (no technical labor) with supplier phone support and repair or replacement (at the manufacturer's or dealer's option) of defective products or parts. *Note:* The battery for Service/Warranty Code **D** has a 1-year warranty. For detailed warranty information, please refer to the Product Manufacturer's warranty certificate.

E GE Healthcare directly, or through a sub-contractor, provides:

Installation (in some cases with an additional charge); basic functional troubleshooting (no technical labor) with supplier phone support; and coordination of unit exchange or loaner program for in-factory service.

GE Healthcare arranges for the third-party Product Manufacturer or its dealers to provide in-factory service:

At no charge during the warranty period and at manufacturers or dealer's prevailing service rates outside of the warranty period. Products must be returned to the manufacturer or dealer, at GE Healthcare's expense during warranty and Customer's expense after warranty, for repair.

F GE Healthcare refers to the Product Manufacturer warranty, which provides the following:

Basic functional troubleshooting (no technical labor) with supplier phone support and replacement of non-conforming products or parts, which Customer returns to the manufacturer or dealer during the warranty period. *Note:* For detailed warranty information, please refer to the Product Manufacturer's warranty certificate.

G, J, O and Q GE Healthcare refers to the Product Manufacturer warranty, which provides the following:

Start up and commissioning; basic functional troubleshooting (no technical labor) with supplier phone support 24/7; and warranty service to repair, adjust, or replace (at the manufacturer's or dealer's option) non-conforming products or parts (excluding installation, time and material). Note: The UPS battery for Service/Warranty Code G has a 9-year pro-rated warranty to cover non-conforming material. Start up and commissioning for Service/Warranty Code O applies only to 10 KVA and above. The UPS battery for Service/Warranty Codes O and Q has a 1-year warranty to replace the product. For detailed warranty information, please refer to the Product Manufacturer's warranty certificate. Warranty service for Service/Warranty Codes G and O is provided On-site. For detailed warranty information, please refer to the Product Manufacturer's warranty certificate.

March 26, 2014 2:50pm

H, K, L and M GE Healthcare directly provides the following:

Exchange of non-conforming products, which Customer returns to GE Healthcare during the warranty period. *Note:* Installation, parts, applications training, and on-site service is the Customer's responsibility.

N, R and S GE Healthcare refers to the Product Manufacturer warranty, which provides the following:

Installation; Preventative Maintenance; and parts and labor. **Note:** Post-warranty service, at manufacturer's prevailing HBS rates, and in some cases, under GE Healthcare service contracts. The battery for Service/Warranty Code R has a 1-year warranty. For detailed warranty information, please refer to the Product Manufacturer's warranty certificate.

P GE Healthcare directly provides the following:

Replacement of non-conforming components. **Note:** Installation, parts, applications training, and on-site service is the Customer's responsibility.

T, V and X GE Healthcare directly provides the following:

Replacement of Product only; GE Healthcare will not replace patient records; and product is warranted only for image legibility. **Note:** Installation, parts, applications training, and on-site service is the Customer's responsibility.

W GE Healthcare directly provides the following:

Replacement of Product only for Out of Box failure. **Note:** Installation, parts, applications training, and on-site service is the Customer's responsibility.

Y and Z GE Healthcare refers to the Product Manufacturer warranty, which provides the following:

Basic functional troubleshooting (no technical labor) with supplier phone support and replacement of non-conforming components. **Note:**All electrical components (excluding the UPS) for Service/Warranty Code **Z** have a 1-year warranty. For detailed warranty information, please refer to the Product Manufacturer's warranty certificate.

March 26, 2014 2:50pm



GE Healthcare

Warranty Statement for X-Ray And Image Intensifier Tubes (United States And Canada)

1. Warranty Scope. These warranties cover each GE Healthcare X-ray or image intensifier tube ("Tube") listed in the GE Healthcare Quotation. This warranty statement incorporates GE Healthcare's General Terms and Conditions and GE Healthcare's Product Terms and Conditions.

GE Healthcare warrants that, starting with the Warranty Commencement Date and for the Warranty Period (as defined below): (i) the Tube will be free from defects in title, material and workmanship under normal use and service and (ii) except for Tubes manufactured in compliance with Customer's designs or specifications, the Tube will perform substantially in accordance with GE Healthcare's written technical specifications for the Tube (as such specifications exist on the date the Tube is shipped) ("Tube Specifications"). This warranty statement defines GE Healthcare's warranty obligations for both parts and labor and is available only to end-users that purchase Tubes from GE Healthcare or its authorized distributors. The Warranty Period for all warranties, except the warranty of title and the Patent and Copyright Warranty, is limited in time as shown below.

- 2. Warranty Commencement Date and Warranty Periods. The Warranty Period start date ("Warranty Commencement Date") for Tubes supplied as part of a new system installation will be the system installation date. The Warranty Commencement Date for replacement Tubes is determined by (i) the date GE Healthcare installs the Tube or (ii) if the date of installation is unknown, then the date of GE Healthcare's invoice to Customer or GE Healthcare's authorized distributor, as applicable, and in all cases not later than six (6) months following shipment of the Tube by GE Healthcare. The Warranty Periods are determined as follows:
- <u>Customer Receives A New Tube As Part Of A New System Installation:</u> For Tubes furnished to Customer as part of a new system installation, the Warranty Period for the replacement Tube will be the full term of the warranty, as shown in the chart below.
- <u>Customer Pays A Portion Of The Cost For The New Tube (Pro Rata Calculation Table Applies):</u> For Tubes purchased by Customer with A PRO-RATA ALLOWANCE, the Warranty Period for the new Tube will be the full term of the warranty, as shown in the chart below.
- <u>Customer Pays The Entire Cost For The New Tube:</u> For Tubes purchased by Customer with NO PRO-RATA ALLOWANCE, the Warranty Period for the new Tube will be the full term of the warranty, as shown in the chart below.
- <u>GE Healthcare Pays The Entire Cost For The New Tube:</u> For Tubes furnished to Customer under terms of the FULL WARRANTY PERIOD, as described in the chart, the Warranty Period for the new Tube will be the unexpired term of the warranty applicable to the last Tube for which Customer paid all or a portion of the cost of that Tube. (Note that the Warranty Period is not "reset" for Tubes supplied when GE Healthcare pays the entire cost for the replacement Tube.)
- GE Healthcare Supplied Tubes Under A GE Healthcare Tube Contract: For Tubes furnished to Customer under terms of a GE Healthcare
 Tube contract, refer to the Tube contract terms for discussion of any warranty provisions for the Tube. (Note that in general, at Tube
 contract termination, GE Healthcare provides no warranty of any kind on the Tube(s) remaining in the system.)

3. Remedies

3.1. General Remedies Terms. If, within 10 days after Tube failure, Customer notifies GE Healthcare of Customer's warranty claim during the Warranty Period, provides GE Healthcare with the information shown below, and makes the Tube available for service, GE Healthcare will, at its option, either repair, adjust or replace (with new or exchange replacement parts) the non-conforming Tube or parts of the Tube. Customer must provide GE Healthcare in writing (i) GE Healthcare's serial number of the Tube, (ii) the location and GE Healthcare's serial number of the system on which the Tube was installed, (iii) the date the Tube failed, (iv) the date the Tube was removed from service, and (v) the exposure counter reading when the Tube was removed. Warranty service will be performed as detailed below (with some types of service for a charge and other types of service on a no charge basis, as listed below) during GE Healthcare's standard service coverage hours of 8:00 a.m. to 5:00 p.m. (local site time), Monday-Friday, excluding GE Healthcare holidays ("Standard Coverage Hours"), and outside of Standard Coverage Hours at GE Healthcare's then-prevailing service rates (except as otherwise stated herein) and subject to the availability of personnel.

Customer must: (i) use the Tube in accordance with GE Healthcare service instructions and recommendations for the Tube and the system on which it is installed (including warm up and calibration procedures); (ii) perform preventive and corrective maintenance of the Tube utilizing maintenance procedures in accordance with GE Healthcare service instructions and recommendations and using GE Healthcare replacement parts or replacements parts of equivalent quality; and (iii) keep and make available to GE Healthcare, upon request records documenting the above maintenance.

Customer's failure to (i) properly use the Tube, (ii) perform the maintenance described above, (iii) maintain the information required above, (iv) provide the above information or any other information required by this warranty within the designated time periods, or (v) permit GE Healthcare, to verify such information during GE Healthcare's normal working hours will invalidate this warranty.

March 26, 2014

- 3.2. <u>Determining Tube Charge For Replacement Tubes</u>. Customer will pay the price of the replacement Tube in effect on its delivery date less the applicable Pro Rata Warranty Allowance (if applicable) described in the table that follows. For the purpose of the Pro Rata Warranty Allowance, a fraction of a month less than 15 days will be disregarded, and a fraction of a month equal to or greater than 15 days will be regarded as a full month.
- 3.3. Non-CT Tubes (Radiographic, Radiographic & Fluoroscopic, Vascular, and Mammagraphic). For Non-CT Tubes, warranty service does not include installation of the replacement Tube in Customer's system, but upon Customer's request, GE Healthcare, will install the Tube at GE Healthcare's then-prevailing service rates. If a replacement Tube is not installed by GE Healthcare, Customer must, not later than 10 days after its installation date, provide GE Healthcare, in writing (i) GE Healthcare's serial number of the replacement Tube, (ii) the location and GE Healthcare's serial number of the system on which the replacement Tube has been installed, (iii) the date of installation, and (iv) the exposure counter reading on the installation date.

3.4. CT Tubes Replaced During Full Warranty Period.

- 3.4.1. <u>Determining Labor Charges For Tubes Replaced During Full Warranty Period</u>. No service charges for the installation of the replacement Tube will be billed to Customer for CT Tubes replaced during the Full Warranty Period when those Tubes are replaced during Standard Coverage Hours.
- 3.4.2. <u>GE Healthcare Pays The Entire Cost For The CT Tube</u>. For CT Tubes furnished to Customer under terms of the FULL WARRANTY PERIOD as described in the chart, there is no charge to Customer for GE Healthcare installation costs for installation during Standard Coverage Hours. For services performed outside the Standard Coverage Hours, the service will be provided at GE Healthcare's prevailing service rates at the time of service, less a credit for the comparable service had it been rendered during the Standard Coverage Hours, so that Customer will pay the net difference. No refund or payment will be issued to Customer or other parties who choose to utilize either in-house or third party service providers for installation of the replacement Tube.

3.5. CT Tubes Replaced During Pro Rata Warranty Period.

- 3.5.1. <u>Determining Labor Charges For CT Tubes Replaced During Pro Rata Warranty Period:</u> Customer will pay GE Healthcare a service charge for the installation of the replacement CT Tube in effect on the date the service is rendered, less the applicable Pro Rata Labor Allowance. (Note that the Pro Rata Labor Allowance may be applied only to charges by GE Healthcare for GE Healthcare supplied labor.) No refund or payment will be issued to Customer or other parties who choose to utilize either in-house or third party service providers for installation of the replacement Tube. GE Healthcare will make a credit allowance at the billing rate for services performed for installation during Standard Coverage Hours. For services performed outside of Standard Coverage Hours, the service will be performed at GE Healthcare's prevailing service rates at the time of service, less a credit for the comparable service had it been rendered during Standard Coverage Hours, so that Customer will pay the net difference.
- 3.5.2. Customer Pays A Portion Of The Cost For The Replacement Tube: For Tubes furnished to Customer with A PRO-RATA WARRANTY ALLOWANCE to correct the warranty failure, the labor allowance multiplier will be calculated at the same pro-rata rate as is applicable to the part that is being replaced or repaired. That allowance will be applied to the prevailing service rates at time of service. Customer will pay the service charge less the Pro-Rata Labor Allowance amount.
- 4. Limitations. GE Healthcare shall not have any obligation to Customer hereunder if the warranty claim results from or arises out of: (i) the use of the Tube in combination with any hardware, equipment, supplies, accessories or any other materials or services not furnished by GE Healthcare or recommended in writing by GE Healthcare; (ii) the use of the Tube in a manner or environment, or for any purpose, for which GE Healthcare did not design or manufacture it, or in violation of GE Healthcare's recommendations or instructions on use; or (iii) any alteration, modification or enhancement of the Tube by Customer or any third party not authorized or approved in writing by GE Healthcare. In addition, this warranty does not cover the Tube to the extent it is used in any country other than the country to which GE Healthcare ships the Tube (unless GE Healthcare expressly agrees otherwise in writing). In addition, these warranties do not cover: (i) any defect or deficiency (including failure to conform to Tube Specifications that results, in whole or in part, from any improper storage or handling, failure to maintain the Tubes in the manner described in any applicable instructions or specifications or any cause external to the Tubes or beyond GE Healthcare's reasonable control, including, but not limited to, power failure and failure to keep Customer's site clean and free of dust, sand and other particles or debris; (ii) any adjustment, such as alignment, calibration, or other normal preventative maintenance required of Customer; (iii) expendable supply items; and (iv) stockpiling of replacement parts.

5. Warranty Periods

TUBE TYPE OR SYSTEM DESCRIPTION (a)	FULL WARRANTY PERIOD (b)	PRO RATA WARRANTY PERIOD (
Radiographic	30 days	24 months	
Radiographic & Fluoroscopic	30 days	24 months	
Vascular	30 days	24 months	
Mammographic	30 days (d)	12 months	
MX150 Vascular	36 months	N/A	
Performix 160A (MX160)	36 months	N/A	
MX120 Fluoroscopic	30 days	18 months	
CT Max	4,000 slices	40,000 slices or 12 months	

March 26, 2014

TUBE TYPE OR SYSTEM DESCRIPTION (a) FULL WARRANTY PERIOD (b)		PRO RATA WARRANTY PERIOD (c)	
CT 8800/9000 Metal	4,000 slices	40,000 slices or 12 months	
CT 8800/9000 Graphite	4,000 slices	40,000 slices or 12 months	
GE CGR Graphite	4,000 slices	40,000 slices or 12 months	
GE Technicare CT	4,000 slices	40,000 slices or 12 months	
CT Pace/Sytec 2000-4000	5,000 slices	80,000 slices or 12 months	
CT SRi/Synergy	6,000 slices	80,000 slices or 12 months	
CT 9800 Graphite	5,000 slices	80,000 slices or 12 months	
HiLight Advantage	5,000 slices	80,000 slices or 12 months	
Pegasus on CT/e	5,000 slices	50,000 slices or 12 months	
Pegasus on CT/e Dual	30 days	50,000 slices or 12 months	
ProSpeed/Sytec 6000-8000	9,000 slices	110,000 slices or 12 months	
HiSpeed Advantage on HiSpeed Advantage and CT/I	9,000 slices	140,000 slices or 12 months	
Solarix on LX/I, FX/I, DX/I	10,000 slices	100,000 slices or 12 months	
Solarix 630 on HiSpeed 2X/I	10,000 slices	100,000 slices or 12 months	
Solarix 630 on NX/I Pro	30 days	12 months or 15,000 amp-seconds	
Performix-ADV on CT/I	6 months or 100,000 slices, whichever occurs first	N/A	
Performix-ADV QX/i	6 months or 30,000 amp-seconds, whichever occurs first	N/A	
Performix Ultra on LightSpeed 16, LightSpeed Ultra, LightSpeed Plus, LightSpeed QX/I, HiSpeed QX/I, Discovery LS, Discovery ST	12 months or 70,000 amp-seconds, whichever occurs first	N/A	
Performix Ultra on BrightSpeed 16 (Elite), BrightSpeed 8 (Edge), BrightSpeed 4 (Excel)	12 months or 6,000 patient exams, whichever occurs first	N/A	
Performix Pro80 (D3634T) on LightSpeed Pro 16, LightSpeed RT	12 months or 70,000 amp-seconds, whichever occurs first	N/A	
Performix Pro VCT100 (D3194T) on LightSpeed Pro16	12 months or 70,000 amp-seconds, whichever occurs first	N/A	
Performix Pro VCT100 (D3194T) on LightSpeed VCT, LightSpeed VCT Select, LightSpeed RT16, LightSpeed Xtra, Discovery VCT	12 months or 6,000 patient exams, whichever occurs first	N/A	
Image Intensifier	30 days	24 months	

COMMENTS

(a) For actual catalog numbers, please contact your local GE Healthcare representative.

(b) Initial period of time or amount of use after warranty begins during which a full 100% warranty is provided for a Tube that fails.

(c) Maximum period of time or amount of use during which a Pro Rata Warranty Allowance is provided for a Tube that fails. The Pro Rata Warranty Allowance and the Pro Rata Labor Allowance are calculated as follows:

Number of months between date of warranty commencement and date of failure 1 -	X 100
Complete Warranty Time Period	
OR	
Slices Taken or Amp-Seconds 1	 X 100

The Pro Rata Warranty period ends at the expiration of the maximum time period or the maximum usage amount identified in column (c) above, whichever occurs first.

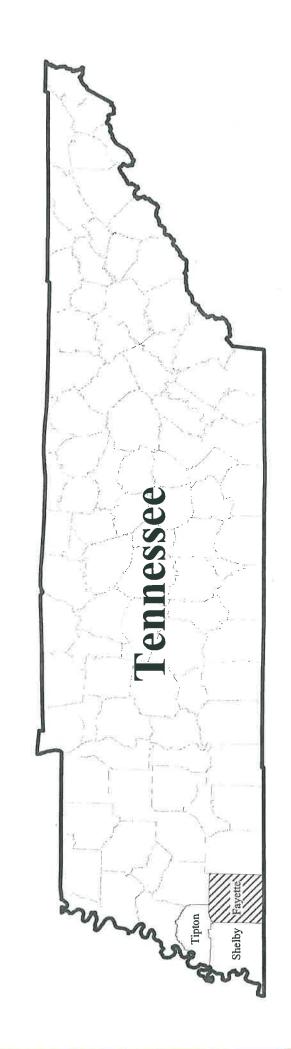
(d) Mammography tubes included with new systems have a full 12 month, non-prorated warranty. Mammography replacement tubes carry a 30 day full warranty/12 month prorated warranty.

March 26, 2014 2:50pm

Attachment L Revised Service Area Map

March 26, 2014 2:50pm

Outpatient Diagnostic Center of Memphis



Attachment M Revised MRI Utilization Table

March 26, 2014 2:50pm

	UTILIZATIO	N OF MRI'S IN T	THE SERVICE		2:50
	AREA		4		
	2010	2011	2012	#units	Percent Change
BMH Collierville	1,941	1,891	1,734	1	(10.66%)
BMH Memphis	11,517	12,052	11,913	3	3.44%
Baptist Rehab - Germantown	1,702	1,622	1,596	1	(6.23%)
Baptist Rehab - Briarcrest	370	585	650	1 – shared with MSK Group Briarcrest	75.68%
Campbell Clinic – Union	64	2,290	2,155	1	3,267.199
Campbell Clinic	8,081	6,502	6,321	1 100	(21.78%)
Delta Medical Center	880	1,006	787	* 1	(10.57%)
Diagnostic Imaging-Memphis	4,540	6,358	6,538	1	44.01%
LeBonheur	3,856	4,663	5,357	3 (2 in 2010)	38.93%
Methodist Germantown	8,313	7,698	6,557	2	(21.12%)
Methodist South	3,536	4,073	4,139	1	17.05%
Methodist North	6,359	6,058	6,092	2	(4.2%)
Methodist University	9,136	9,677	9,803	× 3	7.30%
MSK Group - Covington Pike	3,420	3,096	3,140	1	(8.19%)
MSK Group - Briarcrest	4,043	4,508	4,489	1 – shared with Baptist Rehab	11.03%
Neurology Clinic	3,370	3,168	3,160	1 – shared with Wesley Neurology	(6.23%)
Outpatient Diagnostic Center	2,389	2,207	2,214	1	(7.33%)
Park Ave Diagnostic Center	3,857	3,080	2,681	2	(30.49%)
Regional Medical Center	3,733	3,927	4,491	1	20.31%
Semmes-Murphey	7,327	7,300	6,490	2	(11.42%)
St. Francis	6,159	5,482	5,393	3	(12.44%)
St. Francis Bartlett	3,030	3,257	3,642	2	20.20%
St. Jude	9,467	10,031	6,241	4	(34.08%)
Wesley Neurology	1,393	1,398	1,309	1 – shared with Neurology Clinic	(6.03%)
West Clinic	1,304	1,662	1,564	1	19.94%
BMH Tipton	1,213	1,143	1,265	1	4.29%

Attachment N Revised Project Costs Chart

March 26, 2014 2:50pm

PROJECT COSTS CHART

A.	Con	struction and equipment acquired by purchase:	
	1.	Architectural and engineering Fees	\$140,000
	2.	Legal, Administrative (Excluding CON Filing Fe	e), <u>\$25,000</u>
		Consultant Fees	
	3.	Acquisition of Site	
	4.	Preparation of Site	*
	5.	Construction Costs	\$2,353,530
	6.	Contigency Fund	-
	7.	Fixed Equipment (Not included in Construction Contract)	\$3,324,702
	8.	Moveable Equipment (List all equipment over \$50,000)	\$441,954
	9.	Other (Specify)	,
B.	Acq	uisition by gift, donation, or lease:	
	1.	Facility (inclusive of building and land)	\$3,079,800
	2.	Building only	121
	3.	Land only	Y
	4.	Equipment (Specify)	
	5.	Other (Specify)	
C.	Fina	ancing Costs and Fees	
	1.	Interim Financing	\$736,275
	2.	Underwriting Costs	
	3.	Reserve for One Year's Debt Service	·
	4.	Other (Specify)	<u></u>
D.		mated Projected Cost	\$10,101,261
	(A±.	B+C)	
E.	COl	N Filing Fee	\$22,727.84
F.	Tota	al Estimated Project Cost	\$10.123.989

March 26, 2014 2:50pm

Attachment O Revised Page 20

March 26, 2014 2:50pm

1. Identify the funding sources for this project.

Please check the applicable item(s) below and briefly summarize how the project will be financed.

- X A. Commercial loan--Letter from lending institution or guarantor stating favorable initial contact, proposed loan amount, expected interest rates, anticipated term of the loan, and any restrictions or conditions;
 B. Tax-exempt bonds--Copy of preliminary resolution or a letter from the issuing authority stating favorable initial contact and a conditional agreement from an
- __ C. General obligation bonds—Copy of resolution from issuing authority or minutes from the appropriate meeting.
- __D. Grants--Notification of intent form for grant application or notice of grant award; or
- __E. Cash Reserves--Appropriate documentation from Chief Financial Officer.

underwriter or investment banker to proceed with the issuance;

- X F. Other—Identify and document funding from all other sources.
- A financing letter is attached as Attachment C.Economic Feasibility.2.
- 2. Discuss and document the reasonableness of the proposed project costs. If applicable, compare the cost per square foot of construction to similar projects recently approved by the Health Services and Development Agency. The proposed construction cost is \$2,353,530 which is \$285 per square foot. This project cost is reasonable as confirmed by the architect. A significant portion of the cost is attributable to shielding for the MRI scanner. Comparisons to recently approved projects are not available from the HSDA, due to insufficient sample size. Additionally, the only ODC projects that have been approved in the last few years have been renovations, rather than new construction. A comparison of renovation cost and new construction cost is not meaningful. The information published by the HSDA for 2008-1010 shows the median cost for ODC renovation projects as \$122.51 per square foot and the 3rd quartile cost is \$196.46 per square foot.
- 3. Complete Historical and Projected Data Charts on the following two pages--Do not modify the Charts provided or submit Chart substitutions! Historical Data Chart represents revenue and expense information for the last three (3) years for which complete data is available for the institution. Projected Data Chart requests information for the two (2) years following the completion of this proposal. Projected Data Chart should reflect revenue and expense projections for the Proposal Only.
- 4. Please identify the project's average gross charge, average deduction from operating revenue, and average net charge.

Average Gross Charge	Average Adjustment	Average Net Charge
\$1,346	\$825	\$521

Attachment P Emergency Protocols & Transfer Agreement

PATIENT TRANSFER AGREEMENT (Baptist As Receiving Facility)

THIS AGREEMENT (hereinafter referred to as "Agreement") is made and entered into by and between Baptist Memorial Hospital, (hereinafter referred to as "Baptist") and West Tennessee Imaging, LLC, (hereinafter referred to as "Facility"). Baptist and Facility may be hereinafter collectively referred to as "parties" or "the parties".

WHEREAS, Facility may, from time to time, have patients who require medical care or services that Facility cannot provide, but which are provided at or by Baptist;

WHEREAS, Facility desires to contract with Baptist regarding the transfer of certain of these patients (for whom transfer is requested by Facility and who are determined by Baptist to be appropriate for transfer) hereunder to Baptist for medical care and services;

NOW, THEREFORE, in consideration of the mutual promises and undertakings set out herein, the parties agree as follows:

- 1. TERM AND TERMINATION. This Agreement shall commence upon the beginning of operations if Facility is granted a certificate of need by the Tennessee Health Services and Development Agency and shall remain in force for one (1) year thereafter and, unless either party provides written notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term, shall automatically renew thereafter for successive one (1) year renewal terms up to, but not to exceed, a maximum of two (2) additional terms, subject to the following termination provisions:
 - 1.1. Either party may terminate this Agreement for cause at any time without liability. For purposes of this Agreement, "for cause" shall include, but not necessarily be limited to, the following:
 - 1.1.1. Any change in law or regulation or new legislation or regulations which has a material adverse effect on this Agreement, or which materially and adversely affects reimbursement under any third party payor reimbursement system; or
 - 1.1.2. Any breach of the representations, warranties, or agreements made herein which breach is not cured within twenty (20) days of written notice thereof.
 - 1.2. After this Agreement has been in effect for one (1) year, either party may, upon thirty (30) days advance written notice, terminate this Agreement at any time without cause and/or for any reason.
 - 1.3. On or after the second anniversary of this Agreement or any renewal or other extension of said Agreement, Hospital shall, upon sixty (60) days

advance written notice, have the unlimited right to terminate this Agreement without incurring any penalty as penalty is defined by Internal Revenue Service Revenue Procedure 97-13.

- 1.4. Either party may also terminate this Agreement for "Other Good Cause" upon sixty (60) days advance written notice to the other party. For purposes of this Paragraph, "Other Good Cause" shall be defined as a good faith determination by either party that continuation of this Agreement for the remainder of the term shall work a hardship upon either party or that continuation of this Agreement is not in the best interests of patient care.
- PROCEDURE. Facility, upon determining that a patient requires medical care at Baptist, shall contact the office/department designated by Baptist, advise said office/department that Facility has a patient to be considered for transfer to Baptist, and provide such information regarding the patient and needed medical care and services as requested by Baptist. All oral requests by Facility for transfer shall be confirmed by Facility in writing as soon thereafter as reasonably practicable. Baptist shall then, in its sole discretion, determine whether such proposed patient is appropriate for transfer to Baptist and whether a bed and the appropriate facilities and requested medical care are available. Baptist shall notify Facility of its acceptance or rejection of proposed transfer patients and, as to accepted patients, notify facility of the date, location and time at which it will accept the transfer and each such accepted patient. When appropriate, the attending physician who will be admitting such patient to his/her service must also give approval.
- 3. **TRANSFER AND DELIVERY.** Facility, after consultation with Baptist, shall arrange for the appropriate transportation of accepted transfer patients from Facility to Baptist. Facility will institute and provide all necessary measures to minimize any danger of deterioration of the patient's condition. Baptist shall have no responsibility for arranging for such transfer(s) or the care of the patient(s) during transfer.
- 4. ADMISSION TO BAPTIST. Patients transferred hereunder must be formally admitted to Baptist by a member of Baptist's Medical Staff and must comply with Baptist's conditions, requirements and policies for admission.

5. PATIENT RECORDS AND INFORMATION.

5.1. Facility shall, at the time of transfer, provide Baptist with all pertinent medical and other information necessary for appropriate care and treatment of patient at Baptist including, but not limited to, current medical findings, diagnosis, rehabilitation potential, summary of course of treatment/care followed at Facility, as well as pertinent administrative and social information. When such information is needed in connection with Baptist's determination of whether to accept a proposed transfer or

March 26, 2014 2:50pm

Baptist's preparation to admit, receive or care for the patient, Facility shall provide such information to Baptist prior to transfer of the patient. Otherwise, such information shall accompany the patient upon transfer.

- 5.2. It is acknowledged by the parties that the quality of patient care to be provided by Baptist is directly affected by the information provided to Baptist and, therefore, Facility agrees to promptly provide Baptist with all useful or requested information concerning the patient available to Facility.
- 6. PATIENT AUTHORIZATIONS AND CONSENT. Facility shall, prior to transfer, advise and inform each patient, or the patient's surrogate in the event of patient's medical or legal incompetence, of the details of the transfer, the need or reason(s) for the transfer, alternatives to the transfer, the risks involved and possible benefits of the transfer, and other information in accordance with the guidelines set out in the Accreditation Manual of The Joint Commission and in accordance with all applicable laws, rules and regulations. In addition, Facility shall obtain from each patient an informed consent for such transfer to Baptist.
- 7. PATIENT'S VALUABLES. Only such valuables as are necessary to the care and treatment of the patient shall accompany the patient to Baptist. In the event that valuables are necessary for patient care, Facility shall prepare an inventory of each patient's valuables that are being transported with patient, and shall have the transporting medium execute a receipt of said inventory and valuables. Said inventory and a copy of said receipt shall be provided to Baptist, which shall execute a receipt for the valuables it actually receives. Baptist shall have no responsibility or liability for any valuables not listed on the executed receipt.
- 8. BILLING AND COLLECTIONS. All claims or charges incurred with respect to any services performed by either institution for patients received from the other institution pursuant to this Agreement shall be billed and collected by the institution providing such services directly from the patient, the patient's responsible party, Medicare, Medicaid, a managed care organization or any other third party reimbursement source (collectively referred to as the "Appropriate Payor"), unless the applicable law and regulations require that one institution bill the other institution for such services.
- 9. NOTICE. All notices required or permitted under this Agreement shall be in writing and shall be deemed effective upon deposit in the United States Post Office, by registered or certified mail, return receipt requested with postage prepaid and addressed to the other party at the following addresses:

To Baptist: Baptist Memorial Hospital – Memphis

6019 Walnut Grove Road Memphis, Tennessee 38120 Attention: Administrator

March 26, 2014 2:50pm

To Facility: West Tennessee Imaging, LLC

7600 Wolf River Boulevard Germantown, Tennessee 38138

Attention: Administrator

10. COMPLIANCE WITH LAWS.

- 10.1. Facility hereby represents and warrants to Baptist that it has reviewed the following aovernment sponsored Internet websites: http://exclusions.olg.hhs.gov and http://www.epls.gov and, to the best of its knowledge, information and belief, neither Facility nor any of its officers, directors, subsidiaries, affiliates, or employees performing services for Baptist either on-site or off-site (collectively, the Facility Parties) have been excluded, or are pending exclusion, from participation in any federal or state funded health benefits program (including, without limitation, Medicaid and CHAMPUS/TRICARE) or any federal procurement or non-procurement program. Facility shall immediately notify Baptist in writing if any Facility party is excluded from participation in any of the aforementioned programs. Facility will use its best efforts to ensure that its business practices do not preclude Facility from any such participation. Notwithstanding any other provision of this Agreement. Baptist shall have the right to immediately terminate this Agreement, without liability (including penalty if such is provided under this Agreement) or further obligation, upon exclusion of any Facility Party from any such program.
- 10.2. Facility shall notify Baptist immediately of the initiation of any complaint, inquiry, investigation, by any patient, person, physician, supplemental nursing personnel provided hereunder, review organization, committee, organization, other body/agency that reviews quality of medical care or compliance with reimbursement requirements of governmental or commercial payers. Facility shall require its employees, managers, directors and agents to cooperate fully with Baptist's Quality Assurance, Total Quality Assessment, Risk Management, Human Resources and Compliance programs, including if necessary, providing interviews with Baptist staff, providing written statements to Baptist staff and/or cooperating with any investigation in any other respect reasonably requested by Baptist. Facility agrees that Baptist shall solely direct the investigation and resolution of any complaint of any nature.
- 10.3. The parties shall perform under this Agreement in compliance with all applicable federal and state laws, including without limitation, the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, the Age Discrimination in Employment Acts of 1967 and 1975, the Americans with Disabilities Act of 1990, Title VI of the Civil Rights Act of 1964, and, as applicable, in compliance with standards of the Joint Commission on Accreditation of Healthcare Organizations, the Medicare Conditions of

Participation, and billing requirements of governmental and commercial payers.

- 10.4. The parties agree that neither shall discriminate against any person due to disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, state constitutional or statutory law.
- 10.5. Facility shall, until the expiration of four (4) years after the furnishing of services pursuant to this Agreement, make available upon written request of Secretary of Health and Human Services or the Comptroller General, or any of their duly authorized representatives, a copy of this Agreement, and the books, documents, and records of Facility that are necessary to certify the nature and extent of costs incurred under this Agreement by the United States Department of Health and Human Services, if Facility carries out any of the duties of the Agreement through subcontract with a value or cost of \$10,000.00 or more over a twelve (12) month period with a third party deemed a related organization, until the expiration of four (4) years after the furnishing of Services pursuant to such subcontract, the subcontractor shall make available, upon written request of the Secretary of Health and Human Services, or upon request of the Comptroller General or any of their duly authorized representatives, a copy of the Subcontract, and the books, documents, and records of such contractor that are necessary to verify the nature and extent of the cost incurred under this Agreement by the United States Department of Health and Human Services. Facility will cooperate with Baptist in providing any information required by Medicare or other third party auditors.
- 10.6. If applicable, the parties hereto acknowledge and agree that neither this Agreement nor the compensation paid hereunder is based on, takes into account, or is contingent upon the admission or referral of any of Facility's patients to any entity affiliated with Baptist or Baptist Memorial Health Care Corporation or the volume or value of referrals or other business generated between the parties for which payment may be made or sought in whole or in part under Medicare or any state health care program. The parties further agree that the compensation payable hereunder has been negotiated at arm's length and represents fair market value compensation for the services provided by Facility.
- 10.7. The parties expressly acknowledge that it has been and continues to be their intent to comply fully with all applicable federal, state, and local laws, rules, and regulations. It is neither a purpose nor a requirement of this Agreement or any other agreement between the parties to offer or receive any remuneration or benefit of any nature for the referral of, or to solicit, require, induce, or encourage the referral of any patient, item, or business for which payment may be made or sought in whole or in part by Medicare, Medicaid, or any other federal or state reimbursement program. If applicable, this Agreement has been prepared to comply, to the extent

March 26, 2014 2:50pm

possible, with all applicable Safe Harbor regulations and to comply with the Stark Law and all rules and regulations thereunder. All compensation and payments provided hereunder are intended to represent fair market value for the services provided and it is expressly acknowledged that no payment made or received under this Agreement is in return for the referral of patients or in return for the purchasing, leasing, ordering, arranging for, or recommending the purchasing, leasing, or ordering of any good, service, item, or product for which payment may be made or sought in whole or in part under Medicare, Medicaid, or any other federal or state reimbursement program. In the event of any applicable legislative or regulatory change or action, whether federal or state, that has or would have a significant adverse impact on either party hereto in connection with the performance of services hereunder, or should either party be deemed for any reason in violation of any statute or regulation arising from this Agreement, or should it be determined that this Agreement gives rise to a financial relationship or other relationship under the Stark Act which is not subject to an applicable exception so that referrals between the parties, or billing for such referrals, would be prohibited or restricted by the Stark Act or other state or federal "anti-referral" law, then this Agreement shall be renegotiated to comply with the then current law and, if the parties hereto are unable to reach a mutually agreeable and appropriate modification. either party may terminate this Agreement upon ninety (90) days written notice to the other party.

11. HIPAA.

- 11.1. Both parties acknowledge that they are "Covered Entities" as the term is defined by the Health Insurance Portability and Accountability Act of 1996, as amended. Both parties agree to take such actions as necessary to comply with the privacy and security requirements of HIPAA.
- 11.2. Baptist and Facility agree to maintain protected health information as confidential, disclosing information only as required or allowed by law and only after securing proper consent and/or authorization, as required by HIPAA regulations.

12. LIABILITY AND INDEMNITY.

12.1. Facility shall defend, indemnify and hold Baptist harmless from and against any and all claims or liability, of any nature whatsoever, resulting from or arising out of Facility's acts or omissions in the care or treatment of any patient hereunder or Facility's failure to comply with the provisions of this Agreement. Baptist shall defend, indemnify and hold Facility harmless from and against any and all claims or liability, of any nature whatsoever, resulting from or arising out of Baptist's sole acts or omissions in the care or treatment of any patient hereunder or Baptist's failure to comply with the provisions of this Agreement. However, Baptist shall have no liability

- whatsoever for refusing or failing to approve or accept any patient proposed by Facility for transfer hereunder.
- 12.2. Facility's obligations to indemnify Baptist shall survive the termination of this Agreement for Facility's acts occurring during the term of this Agreement.

13. **LIMITATIONS.**

- 13.1. Baptist has not and does not by execution of this Agreement represent or warrant that it will reserve any beds for such transfer patients from Facility or guarantee the availability of beds at Baptist for use by proposed transfer patients.
- 13.2. Nothing in this Agreement shall be construed as limiting the right of either party to contract with any other health care facility or institution while this Agreement is in effect or thereafter.

14. GENERAL PROVISIONS.

- 14.1. This Agreement constitutes the entire Agreement between the parties and supersedes all prior Agreements and understandings, whether written or oral, relating to the subject matter of this Agreement.
- 14.2. This Agreement shall be construed, interpreted, and enforced in accordance with the laws of the State of Tennessee without reference to the principles of choice or conflict of law.
- 14.3. No failure or omission by the parties hereto in the performance of any obligation of this Agreement shall be deemed a breach of this Agreement nor shall it create any liability if the same shall arise from any cause or causes beyond the reasonable control of the affected party, including but not limited to, the following, which for purposes of this Agreement shall be regarded as beyond the control of the party in question: acts or omission of any government; any rules, regulations, or orders issued by any governmental authority or by any officer, department, agency, or instrumentality thereof; fire; storm; flood; explosions; earthquake; other acts of God; accident; war; rebellion; vandalism; insurrection; riot; invasion; strikes; labor lockouts; and failure of transportation, machinery or supplies; provided, the party so affected shall use its best efforts to avoid or remove such causes of nonperformance and shall continue performance hereunder with the utmost dispatch whenever such causes are removed.
- 14.4. This Agreement may not be assigned without the prior written consent of both parties.

March 26, 2014 2:50pm

- 14.5. If any provision of this Agreement shall be held to be invalid, illegal or otherwise unenforceable, the validity, and enforceability of the remaining provisions shall in no way be affected or impaired thereby.
- 14.6. The failure of either party at any time to require performance by the other of any provision of this Agreement shall in no way affect that party's right to enforce such provision, nor shall the waiver by either party of any breach of any provision of this Agreement be taken or held to be a waiver of any further breach of the same provision or any other provision.
- 14.7. Any attachments referenced in this Agreement are an essential part of the Agreement of the parties, and shall be considered for all purposes a part of this Agreement. Any and all counterparts, photocopies, or other reproductions of this Agreement shall include all of its attachments attached thereto and made a part thereof.
- 14.8. This Agreement shall not be construed against the party or parties preparing it. It shall be construed as if all the parties and each of them jointly prepared this Agreement, and any uncertainty or ambiguity shall not be interpreted against one or more parties.
- 14.9. Neither party shall use the name of the other in any promotional, fund raising or advertising material unless approved in writing by the party whose name is to be so used.
- 14.10. Baptist and Facility shall each designate an appropriate person to act as liaisons between the two parties regarding this Agreement.

Each signatory represents that he/she is of legal age and has the authority to enter into this Agreement.

Baptist Memorial Hospital – Memphis

Zachary Chandler
Authorized Representative

Cannon king
Authorized Representative

Authorized Representative

Authorized Representative



OPERATIONS MANUAL: POLICY & PROCE SUPPLEMENTAL-#1

March 26, 2014

POLICY TITLE	PATIENT EMERGENCIES IN THE MRI SUITE	
INDEX NUMBER	M R - 0 0 2	
ORIGINAL DATE		
LAST REVIEW DATE		
SUPERCEDES		

POLICY PURPOSE: To ensure safety in the MRI suite

POLICY STATEMENT: Special care must be taken when patient emergencies arise in the MRI suite. This policy must be adhered to in order to protect patients and staff while in the MRI suite.

PROCEDURE:

1.0 CARE OF PATIENT WHILE IN MRI SUITE

- 1.1 If a patient becomes unresponsive while in the MRI scanner, the patient will be brought out of the scanner, either by using a nonmagnetic stretcher or draw sheets to transfer.
- 1.2 **NO EQUIPMENT** is allowed into the MRI suite, unless it has been previously designated as non-magnetic and safe for use. No oxygen tanks are allowed in the MRI suite, unless they are made of non-ferrous material.

2.0 CARE OF PATIENT ONCE OUT OF MRI SUITE

- 2.1 The medical personnel instructs nearest employee to call 911 and give appropriate information to operator.
- 2.2 CPR is to be initiated by an employee certified in basic life support, using the LifePak CR automated external defibrillator (AED) if necessary. "SITE" encourages all technologists to maintain CPR credentials on a yearly basis.
- 2.3 When EMS/paramedic team arrives "SITE" will step aside.
- 2.4 The Medical Director is to be notified of incident.
- 2.5 An incident report is to be completed per the Incident and Injury Reporting policy.



OPERATIONS MANUAL: POLICY & PROCES

March 26, 2014

POLICY TITLE	MEDICAL EMERGENCY RESPONSE POLICY
INDEX NUMBER	G S - 0 0 1
ORIGINAL DATE	v.
LAST REVIEW DATE	
SUPERCEDES	

<u>POLICY PURPOSE</u>: To ensure that all employees be aware of the vital process of the chain of survival in order to support a patient's life until more advance support is available.

POLICY STATEMENT: "SITE" staff will follow this policy/procedure in providing for the emergency medical needs of patients, staff and visitors.

<u>**DEFINITIONS:**</u> Medical Emergency: An event requiring the rapid assessment and intervention of trained medical personnel which may include but is not limited to serious injury, unconsciousness, serious respiratory symptoms, symptoms of cardiac crisis.

PROCEDURE:

- 1.0 If a medical emergency occurs, staff is to follow the following procedure:
- 1.1 Assess patient according to American Heart Association guidelines.
- 1.2 Check for unconsciousness, unresponsiveness, deathlike appearance, absence of respiration absence of carotid pulse.
- 1.3 Instruct nearest employee to call 911 and give appropriate information to operator.
- 1.4 Do not leave the patient.
- 1.6 An employee certified in basic life support will immediately take a crash cart to the designated room and plug in the defibrillator (if applicable). "SITE" encourages all technologists to maintain current CPR credentials.
- 1.9 If the patient is vomiting, turn the patient on his or her side immediately to avoid aspiration into the lungs.
- 1.10 Turn the patient on his or her back after vomiting has ceased.
- 1.11 If EMS/paramedics have not yet arrived, begin ABCs (airway, breathing, circulation) of cardiopulmonary resuscitation.
- 1.12 When EMS/paramedic team arrives "SITE" will step aside.
- 1.13 The Medical Director is to be notified of incident.
- 1.14 An incident report is to be completed per the Incident Reporting policy.

ORIGINAL SUPPLEMENTAL-2

West Tennessee Imaging, LLC

CN1403-008



March 31, 2014

Mr. Jeff Grimm, HSD Examiner State of Tennessee Health Services and Development Agency Andrew Jackson Building 9th Floor 502 Deaderick Street Nashville, TN 37243

RE: Certificate of Need Application CN1401-008

West Tennessee Imaging, LLC

Dear Mr. Grimm:

Below are our responses the questions set forth in your letter dated March 27, 2014.

1. Section A, Applicant Profile, Item 4

Discussion of the proposed organizational and business relationships among the entities is noted in page 5 of the application. Given the 80% ownership by Baptist Medical Group (BMG) and 15% Outpatient Imaging Affiliates (OIA), please submit documentation from the Tennessee Secretary of State that acknowledges and verifies the type of ownership & active registration of these organizations. In addition, please document the financial interests of BMG, OIA and the their parent company/owner in any other health care institution as defined in Tennessee Code Annotated, §68-11-1602. At a minimum, please provide the name, address, current status of licensure/certification, and percentage of ownership for each health care institution identified.

Baptist Medical Group, Outpatient Imaging Affiliates, LLC ("OIA"), and its affiliate OIA of Memphis, LLC, are organized under Tennessee law. Confirmation of their status from the Tennessee Secretary of State's office is enclosed as Attachment A.

Baptist Medical Group does not own any healthcare facilities, but its sole member, Baptist Memorial Health Care Corporation, is the sole member of various health care facilities and has an ownership interest in other facilities, as shown in the list enclosed as part of Attachment B. For those Baptist facilities for which no percentage of ownership is indicated, Baptist is the sole member. Attachment B also includes a list of outpatient diagnostic centers owned by OIA, which are 100% owned except as indicated on the list.

2. Section B, Project Description, Item 1

As noted in the description and item 23 of your supplemental response, the proposed ODC of the applicant LLC is approximately ten (10) miles of the current ODC operated by the manager of the LLC (OIA) and is located approximately 2.5 miles to 8.3 miles from existing Baptist Memorial Healthcare Corporation (BMH) sites with MRI units. Please provide a road map identifying the two locations involved in this relocation. It

Mr. Jeff Grimm March 28, 2014 Page 2

March 31, 2014 11:45am

would also be helpful to have another map which identifies all the sites with MRI of the Baptist Memorial Hospital network.

The requested maps are enclosed as Attachment C.

The projected payor mix is noted. It appears that a classification of uninsured and/or self-pay may have been omitted based on the estimate of 395 imaging procedures to be provided to indigent patients in the first year of the project (item 21 of your 3/16/14 reply). Please clarify.

The application form does not appear to request payer mix information for the category of "uninsured/self-pay", so we assume this question is requesting inclusion of charity care in the chart on revised page 27. Enclosed as Attachment D is a second revised page 27 that includes charity care in the payer mix chart.

The clarification regarding the funding support (capital contributions) that will be needed from the partners to fund the estimated project start-up costs of approximately \$891,000 is noted. What considerations apply, if any, to the amount of funding that may be needed in order to secure provider participation agreements in Medicare, TennCare and other third party payor plans?

The existing facility on Stage Road is Medicare certified and has contracts with Medicare Advantage, TennCare and other third-party payer plans. In addition, the existing facility has a patient base that will transition to the new facility. The combination of these factors will minimize the payment lag that might otherwise be experienced by a new facility. In addition, OIA, as the manager of the facility intends to begin discussions with third-party payers at least 90 days in advance of the new facility being open. The applicant is confident that the funding needs of the facility have been fully addressed.

3. Section B, Project Description, Item II C. and Section C, Need, Item 1 (b)

The responses to Section C, Item 1(b) for the two additional certificate of need categories that apply to this project (ODC and MRI services) are noted. Please provide a CV or bio of the applicant's medical director, Dr. Robert Opticon that attests to his qualifications and active membership on the medical staff of the transfer agreement hospital - BMH-Memphis.

Enclosed as Attachment E is copy of Dr.Optican's CV and confirmation from BMH-Memphis of Dr. Optican's status on the medical staff.

4. Section B, Project Description, Item 1I.E. 1.b. and Item 1I.E. 2

The list of the other medical imaging equipment to be purchased for CT, Ultrasound, Fluoroscopy and XRAY services at a total combined amount of approximately \$1,313,705 is noted. Together with the estimated \$2,170,000 cost of the 1.5T GE MRI unit (inclusive of service agreement), the total amount for fixed equipment is approximately \$3,483,705 compared to \$3,324,702 in the revised Project Costs Chart (page 19-R). Please clarify.

Mr. Jeff Grimm March 28, 2014 Page 3

March 31, 2014 11:45am

The total cost of the MRI, CT,ultrasound and x-ray/fluoroscopy equipment is \$3,483,695.72. The ultrasound unit (total cost of \$158,993.66) is classified as movable equipment and the cost of the ultrasound is included Project cost chart on line A.8.

Revision of the MRI unit quote from the vendor, changing the expiration date from April 30, 2014 to June 20, 2014 is noted. As acknowledged by the applicant, the quote must be revised again in order to be effective on the date of the hearing of the application (at the earliest this would be June 25, 2014).

5. Section C. (Need) Item 5

The table on pages 15-16 of the application ("Utilization of MRIs in the Service Area, 2010-2012") is noted. It appears that the utilization for the one (1) MRI unit at the Campbell Clinic-Unionville is missing (2,155 procedures in 2012). In addition, the units that are shared should be noted in the table. An example would be to identify the 1 unit housed at Baptist Rehab-Briarcrest as being shared with the MSK Group-Briarcrest. Please also add a column to identify the percentage change of the MRI utilization for each entity in the table from 2010 – 2012. As a suggestion, contact Alecia Craighead, Stat III, HSDA at 615-253-2782 to discuss revision of the table in the manner requested.

This table was included with the response dated March 26, 2014, as attachment M. It is included with this response as Attachment F.

6. Section C, Need, Item 6

In order to further help illustrate the comparison requested in question 17 of the 3/21/2014 HSDA supplemental questionnaire, please add columns to your table that shows the utilization of the MRI unit of the Outpatient Diagnostic Center of Memphis in CY2013 and CY2014 (estimated).

The chart is below with the columns added:

CPT Code	2013	2014*	Year 1	Year 2
72148	744	774	804	818
73721	518	539	559	569
73221	405	422	437	445
72141	367	382	397	404
70551	128	133	137	140
Arthrograms**	-	-	756	781

^{*}annualized

7. Section C. Economic Feasibility, Item 1 (Project Costs Chart)

Based on the verification of fixed equipment costs as requested above it # 4, additional revision of the form may be necessary. Please clarify.

See the response to question 4 above.

^{**}ODC of Memphis does not perform arthrograms.

Mr. Jeff Grimm March 28, 2014 Page 4

March 31, 2014 11:45am

8. Section C. Economic Feasibility, Item 2

The response provided previously in Section B, Project description, Item 1, page 3 of your 3/26/14 supplemental reply is noted. In addition, the attestations confirming funding support by the three members of the applicant LLC are noted in attachment H of the response. Please confirm that said response pertaining to the \$871,000 amount of capital contributions also applies to this item of the application, by including the remarks in a revised page R-20 of the application.

Revised page 20 is enclosed as Attachment G, with additional explanation as requested.

What is the applicant's estimate of professional fees of the radiologists for CY2013 that were associated with procedures performed for patients enrolled in Medicare – fees that may not included in the \$179,181 of Professional Fees amount in the Historical Data Chart?

The number provided for professional fees in 2013, \$179,181, includes reimbursement to radiologists for all MRIs at the facility including Medicare. Of this total, approximately \$10,751 was attributable to Medicare patients.

9. Section C. (Economic Feasibility) Question 4 (Projected Data Chart)

Clarification of Other Expenses as to "Equipment Service" is noted. Please provide a revised page R-26 to be included with the application.

A revised version of page 26 is included as Attachment H.

Please do not hesitate to contact me with any further questions.

Sincerely,

Perry Baker by Me

March 31, 2014 11:45am

AFFIDAVIT

STATE OF TENNESSEE
COUNTY OF Williamson
NAME OF FACILITY: WEST TENDESSEE IMAGING d/b/g ODC OF MEMPHIS
I, Peru Pater, after first being duly sworn, state under oath that I am the applicant named in this Certificate of Need application or the lawful agent thereof, that
have reviewed all of the supplemental information submitted herewith, and that it is true
accurate, and complete.
Signoffur (Title
Signature/Title
Sworn to and subscribed before me, a Notary Public, this the $\frac{98}{98}$ day of $\frac{14}{90}$
witness my hand at office in the County of, State of Tennessee.
NOTARY PUBLIC Byrd
My commission expires April 15 , 2017.
HF-0043
Revised 7/02
MINIMUM CONTRACTOR OF THE PARTY

March 31, 2014 11:45am

Attachment A Secretary of State Information



March 31, 2014 11:45am

STATE OF TENNESSEE

Tre Hargett, Secretary of State

Division of Business Services

William R. Snodgrass Tower 312 Rosa L. Parks AVE, 6th FL Nashville, TN 37243-1102

Filing Information

Name:

OUTPATIENT IMAGING AFFILIATES, LLC

General Information

SOS Control #:

371843

Formation Locale: TENNESSEE

Filing Type:

Limited Liability Company - Domestic

Date Formed: 06/03/1999

Filing Date:

06/03/1999 2:33 PM

Fiscal Year Close 12

40

Image #

Status:

Active

Member Count:

Duration Term:

Perpetual

Managed By:

Board Managed

Registered Agent Address

PAUL T. NOWAK, JR.

STE 203

133 HOLIDAY CT

Principal Address

STE 200

840 CRESCENT CENTRE DR FRANKLIN, TN 37067-4652

FRANKLIN, TN 37067-1301

Date Filed Filing Description

The following document(s) was/were filed in this office on the date(s) indicated below:

04/01/2013	2012 Annual Report	7181-1952
Member	Count Changed From: 12 To: 9	
03/13/2012	2011 Annual Report	7011-1615
Principa	Address 1 Changed From: 840 CRESCENT CTR DR To: 840 CRESCENT CENTRE DR	
Principa	Address 2 Changed From: SUITE 200 To: STE 200	
Principa	Postal Code Changed From: 37067 To: 37067-4652	
Principa	County Changed From: No value To: WILLIAMSON COUNTY	
Member	Count Changed From: 11 To: 12	
03/29/2011	2010 Annual Report	6864-0086
Member	Count Changed From: 10 To: 11	
03/24/2010	2009 Annual Report	6683-3290
Member	Count Changed From: 11 To: 10	
03/26/2009	2008 Annual Report	6492-1802
Member	Count Changed	
04/02/2008	2007 Annual Report	6284-0949
04/02/2007	2006 Annual Report	6010-2054

March 31, 2014 11:45am

Filing Information

Name:	OUTPATIENT IMAGING AFFILIATES, LLC		
03/30/2006	2005 Annual Report		5746-1465
Principa	l Address Changed		
Registe	red Agent Physical Address Changed		
Register	red Agent Changed		
04/01/2005	2004 Annual Report		5427-0508
Member	Count Changed		
Mail Add	dress Changed		
03/18/2004	2003 Annual Report		5072-2508
08/21/2003	2002 Annual Report		4894-2144
Member	Count Changed		
06/20/2003	Notice of Determination		ROLL 4845
03/20/2002	2001 Annual Report		4452-0527
Member	Count Changed		
Principa	I Address Changed		
03/28/2001	2000 Annual Report		4162-0029
Principa	Address Changed		
12/21/2000	Amended and Restated Formation Documents		4074-0515
Name C	hanged		
08/04/2000	2000 Annual Report		3969-0950
Fiscal Y	ear Close Changed		
06/03/1999	Initial Filing		3689-2279
Active Assu	imed Names (if any)	Date	Expires

March 31, 2014 11:45am

STATE OF TENNESSEE Tre Hargett, Secretary of State

Formation Locale: TENNESSEE

06/26/2013

Date Formed:

Member Count:

Fiscal Year Close 12

Division of Business Services
William R. Snodgrass Tower
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102



Filing Information

Name:

OIA of Memphis, LLC

General Information

SOS Control #:

723829

Limited Liability Company - Domestic

Filing Type: Filing Date:

06/26/2013 1:04 PM

Status:

00/20/2013 1.

Duration Term:

Active Perpetual

Managed By:

Member Managed

Registered Agent Address

PAUL T. NOWAK, JR.

STE 203

133 HOLIDAY CT

FRANKLIN, TN 37067-1301

Principal Address

STE 200

840 CRESCENT CENTRE DR FRANKLIN, TN 37067-4652

The following document(s) was/were filed in this office on the date(s) indicated below:

Date Filed Filing Description

Image #

06/26/2013 Initial Filing

7217-0924

Active Assumed Names (if any)

Date

Expires

March 31, 2014 11:45am



Division of Business Services William R. Snodgrass Tower 312 Rosa L. Parks AVE, 6th FL Nashville, TN 37243-1102



Filing Information

Name:

BAPTIST MEMORIAL MEDICAL GROUP, INC.

General Information

SOS Control #:

270525

Formation Locale: TENNESSEE

Filing Type:

Corporation Non-Profit - Domestic

Date Formed:

09/23/1993

Filing Date:

09/23/1993 10:05 AM

Fiscal Year Close 9

Status: **Duration Term:** Active Perpetual

Public/Mutual Benefit:

Public

Registered Agent Address

GREGORY DUCKETT 350 N HUMPHREYS BLVD MEMPHIS, TN 38120-2177

Principal Address 350 N HUMPHREYS BLVD

MEMPHIS, TN 38120-2177

The following document(s) was/were filed in this office on the date(s) indicated below:

Date Filed	Filing Description	Image #
11/22/2013	2013 Annual Report	7251-3012
10/12/2012	2012 Annual Report	7103-0900
02/02/2012	Assumed Name	6991-1231
New As	sumed Name Changed From: No Value To: Baptist Medical Group	
09/23/2011	2011 Annual Report	6941-2684
08/23/2011	Assumed Name	6932-1055
New As	sumed Name Changed From: No Value To: THE PRIMARY CARE FOUNDATION	
10/15/2010	2010 Annual Report	6782-2909
10/20/2009	2009 Annual Report	6613-2038
04/28/2009	Assumed Name	6525-2665
10/23/2008	2008 Annual Report	6391-2712
10/24/2007	2007 Annual Report	6150-0957
10/16/2007	Articles of Amendment	6144-1802
Name C	Changed	
11/20/2006	2006 Annual Report	5892-0844
10/19/2005	2005 Annual Report	5587-1002
12/01/2004	2004 Annual Report	5291-1469
3/27/2014 5:	51:01 PM	Page 1 of 2

March 31, 2014 11:45am

Attachment B BMHCC and OiA Ownership Information

March 31, 2014 11:45am

Baptist Memorial Health Care Corporation is affiliated with the following hospitals:

Baptist Memorial Hospital, Inc.

d\b\a Baptist Memorial Hospital-Memphis 6019 Walnut Grove Road Memphis, TN 38120

d\b\a Baptist Memorial Hospital for Women 6225 Humphreys Boulevard Memphis, TN 38120

d\b\a Baptist Memorial Hospital-Collierville 1500 West Poplar Avenue Collierville, TN 38017

Baptist Memorial Hospital-North Mississippi Inc.

2301 South Lamar Oxford, MS 38655

Baptist Memorial Hospital-Booneville, Inc.

100 Hospital Street Booneville, MS 38829

Baptist Memorial Hospital-DeSoto,Inc. 7601 Southcrest Parkway

Southaven, MS 38671

Baptist Memorial Regional Rehabilitation Services, Inc.

d\b\a Baptist Memorial Restorative Care Hospital 6019 Walnut Grove Rd.
Memphis, TN 38120

d\b\a Baptist Rehabilitation-Germantown 2100 Exeter Rd. Germantown, TN 38138

Northeast Arkansas Baptist Memorial Health Care LLC

d\b\a NEA – Baptist Memorial Hospital 4800 E Johnson Ave Jonesboro, AR 72401

d\b\a The Surgical Hospital of Jonesboro 909 Enterprise Drive Jonesboro, AR 72401 Baptist Memorial Hospital-Golden Triangle,Inc. 2520 Fifth Street North Columbus, MS 72370

Baptist Memorial Hospital-Tipton, Inc.

Baptist Memorial Hospital-Tipton,Inc 1995 Highway 51 South Covington, TN 38019

<u>Baptist Memorial Hospital-Union City,Inc.</u> 1201 Bishop Street Union City, TN 38261

Baptist Memorial Hospital-Union County,Inc

200 Highway 30 West New Albany, MS 38652

Baptist Memorial Hospital-Huntingdon, Inc.

631 R.B. Wilson Drive Huntingdon, TN 38344

March 31, 2014 11:45am

Baptist Memorial Health Care Corporation is affiliated with the following Home Health Agencies:

Baptist Memorial Home Care and Hospice 126 Highway 51 N Batesville, MS 38606

Baptist Home Care & Hospice - Covington 1618 Highway 51 South Unit C Covington, TN 38019

Baptist Memorial Home Care 631 R.B. Wilson Drive Huntingdon, TN 38344-1727

Baptist Home Care Trinity 6141 Walnut Grove Rd Memphis, TN 38120

<u>Baptist Trinity Home Care - Private Pay Division</u> 6141 Walnut Grove Rd Memphis, TN 38120

OTHER

Walnut Grove Plaza Pharmacy 6025 Walnut Grove Rd Memphis, TN 38120

<u>Baptist Memorial Hospital -Memphis Skilled Nursing Facility</u> 6019 Walnut Grove Road Memphis, TN 38120

March 31, 2014 11:45am

Baptist Memorial Health Care Corporation is affiliated with the following surgery centers:

Baptist Germantown Surgery Center

Baptist is 58.475% owner

2100 Exeter Rd, Ste 101 Germantown, TN 38138

East Memphis Surgery Center 80 Humphreys Center Drive #101

Baptist is 60% owner

Memphis, TN 38120

Hamilton Eye Institute Surgery Center, L.P.

Baptist is 33.3% owner

930 Madison Ave, Suite 101

Memphis, TN 38163

Mays & Schnapp Pain Clinic and Rehabilitation Center

Baptist is 50% owner

55 Humphreys Center Drive #200

Memphis, TN 38120

Memphis Surgery Center

Baptist is 49% owner

1044 Cresthaven Memphis, TN 38119

<u>Urocenter</u>

Baptist is 50% owner

80 Humphreys Ste 310 Memphis, TN 38120

<u>Union City Surgery Center</u> 1722 E. Reelfoot Ave, Ste 1

Union City, TN 38261

Baptist is 50% owner

Oxford Surgery Center

499 Azalea Drive Oxford, MS 38655

Phone: (662) 234-7979

Baptist is 60% owner

Baptist Desoto Surgery Center

391 Southcrest Circle Suite 1000

Southaven, MS 38671 Phone: (662) 349-0910 Baptist is 75% owner

March 31, 2014 11:45am

Baptist Memorial Health Care Corporation is affiliated with the following Hospice:

Baptist Memorial Hospice-Columbus 2520 5th Street North Columbus, MS 39701

Baptist Memorial Home Care and Hospice 126 Highway 51 N Batesville, MS 38606

Baptist Memorial Home Care & Hospice 631 R.B. Wilson Drive Huntingdon, TN 38344-1727

Baptist Home Care & Hospice 1201 Bishop Street Union City, TN 38261

Baptist Home Care & Hospice - Covington 1618 Highway 51 South Unit C Covington, TN 38019

Baptist Trinity Hospice 6141 Walnut Grove Rd Memphis, TN 38120

HOME MEDICAL EQUIPMENT

Baptist Home Medical Equipment 1600 Century Center Parkway Suite 101 Memphis, TN 38134-8849

Baptist Home Medical Equipment 2627 5th St N Columbus, MS 39705

Baptist Home Medical Equipment 2003 Harris Dr Oxford, MS 38655

Medical Alternatives 4565 Shelby Rd Millington, TN 38053

Baptist is 80% owner

Listing of OiA owned or managed centers:

SUPPLEMENTAL-#1

March 31, 2014 11:45am

Centers Owned 100% by OIA

Premier Diagnostic Center 3920 North Union Blvd, Suite 130 Colorado Springs, CO 80907

Outpatient Diagnostic Center of Huntsville 115 St. Claire Avenue Hunstville, AL 35801

Outpatient Diagnostic Center of Madison 540 Hughes Road, Suite 5 Madison, Alabama 35758

Outpatient Diagnostic Center of Memphis 5130 Stage Road Memphis, TN 38134

Outpatient Diagnostic Center of Nashville 337 22nd Avenue North Nashville, TN 37203

Outpatient Diagnostic Center of Knoxville 601 Hall of Fame Drive Knoxville, TN 37915

Augusta Open MRI 3685 Wheeler Road Augusta, GA 30909

Nebraska Health Imaging 7819 Dodge Street Omaha, NE 68114

Lincoln Trail Diagnostics 1111 Woodland Drive Elizabethtown, KY 42701

Raleigh Radiology at Cedarhurst 1212 Cedarhurst Dr Raleigh, NC 27609

Raleigh Radiology at Clayton 300 Guy Rd, Suite 102 Clayton, NC 27520

Raleigh Radiology Wake Forest 839 Durham Hwy, Unit A Wake Forest, NC 27587

No Ownership - Contract Management Only

Ft. Jesse Imaging Center 2200 Ft. Jesse Rd Normal, IL 61761

OiA Joint Ventured Centers

Raleigh Radiology Brier Creek OiA Ownership - 50% 8851 Ellstree Lane, Suite 100 Raleigh, NC 27617

Holmdel Imaging, LLC OiA Ownership - 33% 100 commons Way Suite 110 Holmdel, NJ 07733

Wake Forest Baptist
OiA Ownership - 25%
265 Executive Park Blvd
Winston Salem, NC 27103

UVA Imaging
OiA Ownership - 20%

415 Ray C. Hunt Drive Charlottesville, VA 22903

545 Ray C. Hunt Drive Charlottesville, VA 22903

1015 Spring Creek Parkway Zion Crossroads, VA 22942

2965 Ivy Road (250 West) Charlottesville, VA 22901

Chesapeake Regional Imaging Centers OiA Ownership - 50%

> 676A Kingsborough Square Chesapeake, VA 23320

171 Kempsville Rd Building C Norfolk, VA 23502

Jefferson Outpatient Imaging OiA Ownership - 20%

> 850 Walnut Street Philadelphia, PA 19107

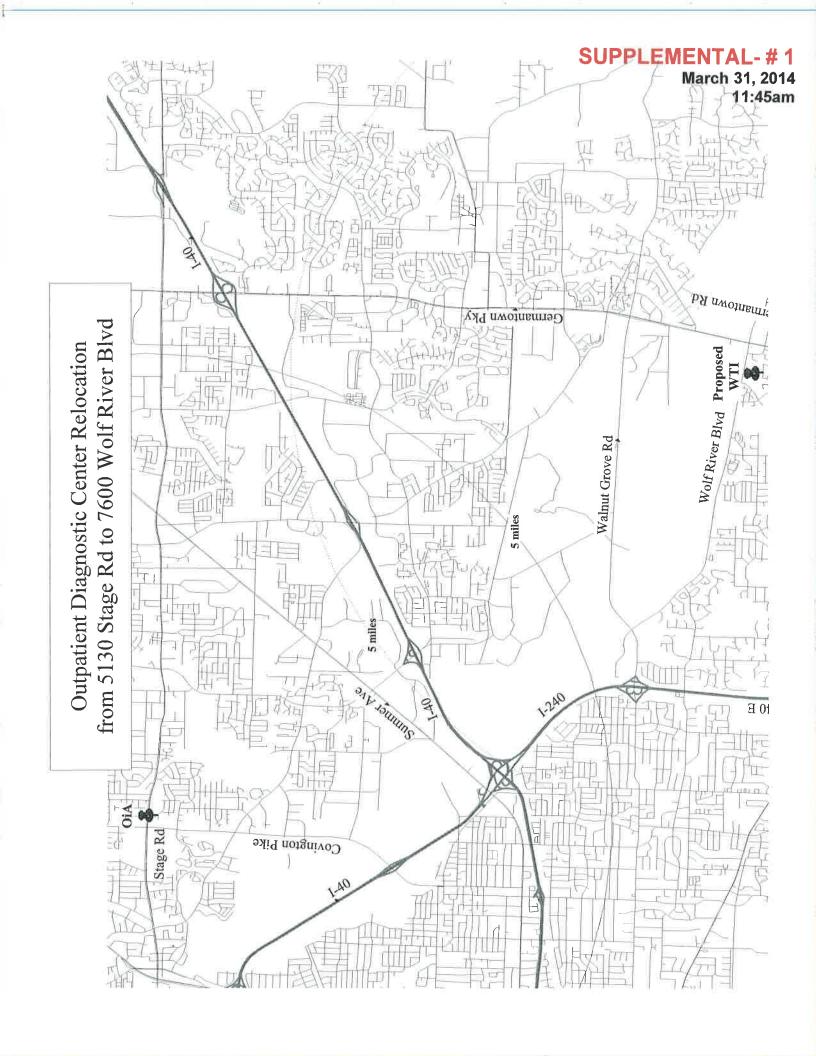
430 Park Plaza, Suite 100 Collegeville, PA 19426

1 West Germantwon Pike East Norriton, PA 19401

470 John Young Way Exton, PA 19341

March 31, 2014 11:45am

Attachment C Maps



March 31, 2014 11:45am

Attachment D Second Revised Page 27

March 31, 2014 11:45am

B. Compare the proposed charges to those of similar facilities in the service area/adjoining service areas, or to proposed charges of projects recently approved by the Health Services and Development Agency. If applicable, compare the proposed charges of the project to the current Medicare allowable fee schedule by common procedure terminology (CPT) code(s).

The median gross charge for MRI services, per the HSDA equipment registry, is \$2.106.03.

Scan	Medicare Allowable	OiA Charges
Mri lumbar spine w/o dye	\$224.93	\$1,404.00
Mri jnt of lwr extre w/o dye	\$234.75	\$1,111.00
Mri neck spine w/o dye	\$224.75	\$1,354.00
Mri joint upr extrem w/o dye	\$234.43	\$1,131.00
Mri brain w/o dye	\$226.49	\$1,486.00

1. Discuss how projected utilization rates will be sufficient to maintain cost-effectiveness; how financial viability will be ensured within two years; and demonstrate the availability of sufficient cash flow until financial viability is achieved.

MRI is an existing service. This project will round out the current imaging services with CT, ultrasound, x-ray, and fluoroscopy. Adding these additional modalities in one facility will increase the cost-effectiveness of the current services because the center will be able to spread the fixed administrative costs such as patient waiting and sub-waiting, IT systems, and reception and scheduling to all modalities not just MRI. In addition, the applicant anticipates some of the clinical staff will be cross trained on different modalities providing for an efficient level of staffing.

It is anticipated that upon opening of the location, the partners will fund the entity with \$1.4 million in working capital to cover the center's startup phase.

2. Discuss the project's participation in state and federal revenue programs including a description of the extent to which Medicare, TennCare/Medicaid, and medically indigent patients will be served by the project. In addition, report the estimated dollar amount of revenue and percentage of total project revenue anticipated from each of TennCare, Medicare, or other state and federal sources for the proposal's first year of operation.

The center currently is enrolled with Medicare and TennCare/Medicaid. There are no restrictions or limitations for patients to use the services of the facility. The center treats all patients regardless of their ability to pay for services and will continue this policy at the new location. As mentioned above, the facility will adopt the charity care policy of BMG and its affiliates.

Year 1

	Gross Revenue	Percentage of Overall Revenue		
TennCare/Medicaid	\$361,674.72	4%		
Medicare	\$542,512.08	6%		
Charity Care	\$271,256	3%		

March 31, 2014 11:45am

Attachment E Dr. Optican's CV

March 31, 2014 11:45am

ROBERT J. OPTICAN, M.D.

(901) 747-1000 (0)

DATE/PLACE OF BIRTH:

September 28, 1962 St. Joseph, Missouri

PRESENT TITLE:

7/1/94-Present Director of Thoracic Imaging

Metro Memphis Baptist Memorial Hospitals

Memphis, Tennessee

Vice-President

Mid South Imaging and Therapeutics, P.A.

OFFICE ADDRESS:

7/1/94-Present Mid-South Imaging & Therapeutics, P.A.

6305 Humphreys Blvd., Suite 205

Memphis, Tennessee 38120

EDUCATION:

1980-1984 Duke University

Durham, North Carolina

BA Chemistry, summa cum laude

1984-1988 Washington University School of Medicine

St. Louis, Missouri Doctor of Medicine

HONORS AND AWARDS:

1983	Elected to Phi Beta Kappa
1984	George F. Gill Prize in Anatomy
1984	Kehar S. Chouke Prize in Anatomy
1985	Edmund V. Cowdry Prize in Histology
1985	Antionette Frances Dames Prize in Physiology
	and Biophysics
1987	Elected to Alpha Omega Alpha

March 31, 2014 11:45am

ROBERT J. OPTICAN, M.D. CURRICULUM VITAE PAGE 2

POST GRADUATE TRAINING:

1988-1989 Transitional Year Residency St. John's Mercy Medical Center

St. Louis, Missouri

1989-1993 Diagnostic Radiology Residency
Duke University Medical Center

Durham, North Carolina

1993-1994 Cardiovascular Imaging Fellowship

Cleveland Clinic Foundation

Cleveland, Ohio

BOARD CERTIFICATION:

June 1993

Board Certified in Diagnostic Radiology American Board of Radiology

LICENSURE:

Tennessee License #MD025706 - June 13, 1994 North Carolina #35243 - January 1992 Mississippi License #15240 - March 27, 1997 Arkansas License #E-1299 - June 6, 1997

PROFESSIONAL MEMBERSHIPS:

Society of Thoracic Radiology, Senior Member North American Society of Cardiac Imaging Radiological Society of North America American College of Radiology American Roentgen Ray Society

OTHER PROFESSIONAL ACTIVITIES:

Baptist Memorial Memphis Medical Staff Bylaws Committee.

PUBLICATIONS AND POSTERS:

Optican R, White K, Effman E. Goitrous Cretinism Manifesting as Newborn Stridor: CT Evaluation American Journal of Roentgenology. 157: 557-558, September 1991.

March 31, 2014 11:45am

ROBERT J. OPTICAN, M.D. CURRICULUM VITAE PAGE 3

Optican R, Ost A, Ravin C. High Resolution Computed Tomography in the Diagnosis of Miliary Tuberculosis. Chest. 102: 941-943, 1992.

Cook S, Optican R, VanDyke C, et al. Radio-opaque Densities Identified on Routine Chest X-rays. RSNA 1993 poster exhibition, Certificate of Merit. Radiology. 189(1): 323, 1993.

VanDyke C, Davros W, Hardy P, Optican R, Zeman R, White R. Three-Dimensional Reconstruction of the Thoracic Great Vessels. RSNA 1993 poster exhibition. Radiology 189(1): 322-1993.

Adult Congential Heart Disease, and "Pulmonary and Cardiac Imaging,"
C. Chiles and C. Putman, EDS. New York: Marcel, Dekker, Inc., 1997.

Cardiac MRI: Case Presentation in "Essentials Of Cardia Imaging, Second Edition," J.T.T. Chen, Ed. Philadelphia: Lippincott-Raven, 1997.

White RD, et al, Right Ventricular Arrhythmia in the Absence of Arrhythmogenic Dysplasia: MR Imaging of Myocardial Abnormalities. Radiology, 207 (3): 743-751, June 1998.

Sacks, Harold S., Fain, John N., Holman, Ben, Cheema, Paramjeet, Chary, Aron, Parks, Frank, Karas, James, Optican, Robert, Bahouth, Suleiman W., Garrett, Edward, Wolf, Rodney Y., Carter, Russell A., Robbins, Todd,, Wolford, David, and Samaha, Joseph. Uncoupling Protein-1 and Related Messenger Ribonucleic Acids in Human Epicardial and Other Adipose Tissues: Epicardial Fat Functioning as Brown Fat: Mol Endocrinol 2009 23:1519-1520

Duszak R, Optican R, et al.
Cardiac CT and Coronary CTA: Early Medicare Claims
Analysis of National and Regional Utilization and Coverage.
Journal of the American College of Radiology Volume 8,
Issue 8, Pages 549-555, August 2011

National Institutes of Health state of the science Conference statement: Enhancing use and quality of colorectal cancer screening. Steinwachs D, Allen JD, Barlow WE, Duncan RP, Egede LE, Friedman LS, Keating NL, Kim P, Lave JR, Laveist TA, Ness RD, Optican RJ, Virning BA. Ann Intern Med. 2010 May 18;152 (10): 663-7

March 31, 2014 11:45am



January 28, 2014

RE: Reappointment Timeframe February 01, 2014 - January 31, 2016

Robert J Optican, MD

We are pleased to inform you that your application for Reappointment, as recommended by the Credentials and Medical Executive Committees, was approved by the Board for the above-referenced period of time. Listed below are the privileges that you currently hold.

Radiology - Collierville Core Radiology (Contracted Service) Moderate Sedation Radiology - DeSoto Core Radiology (Contracted Service) Moderate Sedation Radiology - Memphis Core Radiology (Contracted Service) Moderate Sedation Radiology - Germantown Core Radiology (Contracted Service) Radiology - Womens Core Radiology (Contracted Service) Moderate Sedation

Thank you for your continued interest and participation in the hospital and medical staff. If I can be of any assistance to you, please feel free to contact me at 901/227-2453.

Sincerely,

Marilyn Mitchell, CPMSM, CPCS

1) Modela Do

Manager, Metro Medical Staff Services

March 31, 2014 11:45am

Attachment F MRI Utilization in Service Area

March 31, 2014 11:45am

		N OF MRI'S IN T	THE SERVICE		E 555 100
	AREA				_
	2010	2011	2012	#units	Percent Change
BMH Collierville	1,941	1,891	1,734	1	(10.66%)
BMH Memphis	11,517	12,052	11,913	3	3.44%
Baptist Rehab - Germantown	1,702	1,622	1,596	1	(6.23%)
Baptist Rehab - Briarcrest	370	585	650	1 – shared with MSK Group Briarcrest	75.68%
Campbell Clinic – Union	64	2,290	2,155	1	3,267.19%
Campbell Clinic	8,081	6,502	6,321	1	(21.78%)
Delta Medical Center	880	1,006	787	1	(10.57%)
Diagnostic Imaging-Memphis	4,540	6,358	6,538	1	44.01%
LeBonheur	3,856	4,663	5,357	3 (2 in 2010)	38.93%
Methodist Germantown	8,313	7,698	6,557	2	(21.12%)
Methodist South	3,536	4,073	4,139	1	17.05%
Methodist North	6,359	6,058	6,092	2	(4.2%)
Methodist University	9,136	9,677	9,803	3	7.30%
MSK Group - Covington Pike	3,420	3,096	3,140	1	(8.19%)
MSK Group - Briarcrest	4,043	4,508	4,489	1 – shared with Baptist Rehab	11.03%
Neurology Clinic	3,370	3,168	3,160	1 – shared with Wesley Neurology	(6.23%)
Outpatient Diagnostic Center	2,389	2,207	2,214	1	(7.33%)
Park Ave Diagnostic Center	3,857	3,080	2,681	2	(30.49%)
Regional Medical Center	3,733	3,927	4,491	1	20.31%
Semmes-Murphey	7,327	7,300	6,490	2	(11.42%)
St. Francis	6,159	5,482	5,393	3	(12.44%)
St. Francis Bartlett	3,030	3,257	3,642	2	20.20%
St. Jude	9,467	10,031	6,241	4	(34.08%)
Wesley Neurology	1,393	1,398	1,309	1 – shared with Neurology Clinic	(6.03%)
West Clinic	1,304	1,662	1,564	1	19.94%
BMH Tipton	1,213	1,143	1,265	1	4.29%

March 31, 2014 11:45am

Attachment G Second Revised Page 20

March 31, 2014 11:45am

1. Identify the funding sources for this project.

Please check the applicable item(s) below and briefly summarize how the project will be financed.

X A. Commercial loan--Letter from lending institution or guarantor stating favorable initial contact, proposed loan amount, expected interest rates, anticipated term of the loan, and any restrictions or conditions;
 B. Tax-exempt bonds--Copy of preliminary resolution or a letter from the issuing authority stating favorable initial contact and a conditional agreement from an underwriter or investment banker to proceed with the issuance;
 C. General obligation bonds—Copy of resolution from issuing authority or minutes from the appropriate meeting.
 D. Grants--Notification of intent form for grant application or notice of grant award; or
 E. Cash Reserves--Appropriate documentation from Chief Financial Officer.
 X F. Other—Identify and document funding from all other sources.

A financing letter is attached as Attachment C.Economic Feasibility.2. The start-up expenses for the project are projected to be approximately \$471,000, with imaging equipment purchased through 7-year financing and the build-out of space financed with a combination of a 5-year loan of \$2,000,000 and a tenant improvement allowance of \$35 per square foot. The facility will achieve positive cash flow in the 3rd year, and the total working capital required to sustain the facility until positive cash flow is achieved is projected to be approximately \$420,000. The initial capital contribution of \$1,400,000 by the members will be more than adequate to fund the facility.

- 2. Discuss and document the reasonableness of the proposed project costs. If applicable, compare the cost per square foot of construction to similar projects recently approved by the Health Services and Development Agency. The proposed construction cost is \$2,353,530 which is \$285 per square foot. This project cost is reasonable as confirmed by the architect. A significant portion of the cost is attributable to shielding for the MRI scanner. Comparisons to recently approved projects are not available from the HSDA, due to insufficient sample size. Additionally, the only ODC projects that have been approved in the last few years have been renovations, rather than new construction. A comparison of renovation cost and new construction cost is not meaningful. The information published by the HSDA for 2008-1010 shows the median cost for ODC renovation projects as \$122.51 per square foot and the 3rd quartile cost is \$196.46 per square foot.
- 3. Complete Historical and Projected Data Charts on the following two pages--Do not modify the Charts provided or submit Chart substitutions! Historical Data Chart represents revenue and expense information for the last three (3) years for which complete data is available for the institution. Projected Data Chart requests information for the two (2) years following the completion of this proposal. Projected Data Chart should reflect revenue and expense projections for the Proposal Only.

March 31, 2014 11:45am

4. Please identify the project's average gross charge, average deduction from operating revenue, and average net charge.

Average Gross Charge	Average Adjustment	Average Net Charge
\$1,346	\$825	\$521

March 31, 2014 11:45am

Attachment H Revised Page 26

March 31, 2014 11:45am

Historical DATA CHART-OTHER EXPENSES

OTHER EXPENSES CATEGORIES		2011	2012	2013
Professional Fees	\$	116,663	\$ 146,353	\$ 179,181
Equipment Service	\$	81,409	\$ 126,774	\$ 109,938
Billing Fees	\$	36,457	\$ 45,738	\$ 5,000
General and Administrative Expense	\$	179,480	\$ 178,207	\$ 174,466
5				
6	-			
7				
Total Other Expenses	\$	414,009	\$ 497,073	\$ 468,585

PROJECTED DATA CHART – Full Project – OTHER EXPENSES

	Ye	ar 1	Y	ear 2
OTHER EXPENSES CATEGORIES				
Professional Fees	\$	470,377	\$	490,277
Equipment Service	\$	-	\$	182,500
Billing Fees	\$	146,993	\$	153,212
General and Administrative Expense	\$	226,391	\$	183,854
Information Technology Related	\$	57,000	\$	34,080
	-			
Total Other Expenses	\$	900,761	\$	1,043,923
Total Other Expenses PROJECTED DATA CHART—	-MRI	Only – OT	HER	EXPENSES
PROJECTED DATA CHART-	-MRI		HER	,
•	-MRI	Only – OT	HER	EXPENSES
PROJECTED DATA CHART— OTHER EXPENSES CATEGORIES Professional Fees	-MRI Ye	Only – OT ar 1	HER Yea	EXPENSES
PROJECTED DATA CHART— OTHER EXPENSES CATEGORIES Professional Fees Equipment Service	-MRI Ye	Only – OT ar 1	HER Yea	2 EXPENSES ar 2 304,026
PROJECTED DATA CHART— OTHER EXPENSES CATEGORIES	-MRI Ye	Only – OT ar 1 291,934	HER Yea \$	304,026 100,000

Total Other Expenses \$ 543,015 \$ 634,195

1. A. Please provide the current and proposed charge schedules for the proposal. Discuss any adjustment to current charges that will result from the implementation of the proposal. Additionally, describe the anticipated revenue from the proposed project and the impact on existing patient charges. There will be no changes to charges as a result of this project. The current average gross charge is \$1,325.